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EPA - REGION X

November 12, 2004

CERTIFIED MAIL

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Robert Hartman
Assistant Regional Counsel
M/S ORC-158
USEPA Region 10
1200 Sixth Avenue
Seattle, WA 98101

RE: 60-Day Notice of Unacceptability, Burlington Environmental Inc., Kent Facility, a wholly owned subsidiary of Philip Services Corporation (PSC), EPA ID No. WAD991281767

Dear Mr. Hartman;

This letter responds to EPA's 60-day Notice of Unacceptability (Notice) dated October 26, 2004 concerning the Washington State Department of Ecology's (Ecology) August 11, 2004 inspection report for the Burlington Environmental Inc., Kent Facility, a wholly owned subsidiary of Philip Services Corporation (PSC), located at 20245 77th Ave. South, Kent, Washington (EPA ID WAD991281767). PSC has taken immediate actions to correct all deficiencies identified in the report, and has submitted a response dated October 29, 2004 to Ecology. PSC's response included the enclosed Compliance Certificate, signed by Tim Smith, PSC Western Region Vice President, certifying a "return to compliance" status at the PSC-Kent Facility.

In accordance with the Notice, and 40 CFR § 300.440(d), PSC is submitting comments as addressed in the October 29, 2004 response to Ecology. Please note that the October 29, 2004 response included more than 100 pages of attachments; these attachments have not been included with this correspondence, however, they are available upon request.

Compliance Problems

Item 1: Identification of Containers

During the August 11, 2004 inspection, Ecology and Public Health Inspectors did a very detailed inspection of the entire facility, during which, according to the inspection report, approximately 10 to 15 labels were noted as illegible and/or obscured. In the records review and outbriefing portion of the inspection report, Ecology indicated that there were "many" torn, faded or illegible labels. In fact, the number of deficient labels that Ecology reported represents less than 1% of the over 2,600 drums on-site at the time of the inspection.

PSC continues to acknowledge and address Ecology's concern over deficient labels; in a January 19, 2004 response letter to Ecology regarding the November 20, 2003 Compliance Inspection, PSC identified both the cause of labeling issues at the PSC Kent facility, as well as the daily corrective measures that are taken to identify and correct labels that become deficient. During the August 11, 2004 inspection, Ecology received a copy of the current Stack Compliance sheet, which Cathy Swick fills out on a daily basis to identify and replace any deficient labels. Ms. Swick's 8/11/04 Stack Compliance sheet identified and corrected 51 labels, some of which Ecology had identified earlier





that morning. However, even with daily corrective actions, labels may potentially be ripped each time a container is moved, and labels fade or break down due to exposure to the weather. For these reasons, PSC has implemented a new barcode labeling system in which required information is printed on a label, along with a barcode and/or drum number. The label is affixed during check-in, and if the original waste label became ripped or illegible, the barcode label would be placed on the lower third of the drum and it would be clearly visible and legible to insure proper identification of the container. The barcode labeling system is currently being used at both the PSC-Kent and PSC-Tacoma facilities.

Other corrective measures include the acquisition of new \$4,600 "parrotbeak" drum grabbers, which grip containers by the ring, thus reducing the likelihood of ripped labels when containers are offloaded to the check-in area and moved into storage area from check-in. In addition, as described in the October 7, 2004 conference call with Ecology, George Walker, a Foreman with the PSC-Kent facility, will assume a new full-time Supervisory role in which he is responsible for compliance items at the PSC-Kent facility. Mr. Walker has been trained in forklift operation and has "train-the trainer" status, therefore, he can immediately move containers to correct any compliance issues, and retrain applicable PSC-personnel on reoccurring compliance issues if directed to do so by the Plant Manager.

Item 2: Inspection Plan

Ecology noted that the inspection logs for August 6 through August 11 were not finalized because Chris Dietrich was away from the plant. In Mr. Dietrich's absence, Mike Sheehan, Facility Superintendent, had reviewed the inspection logs from the above-referenced timeframe to note any deficiencies that required immediate attention, however, Mr. Dietrich finalized the logs by later signing and placing them in the file. In the future, if Mr. Dietrich is absent from the facility, he will assign signatory authority to a supervisor or appointed designee. All applicable Kent Facility personnel have been retrained on the proper procedures for conducting inspections and filling out inspection forms. Issues such as labels, aisle space, and leaking containers were emphasized during the training.

Item 3: Duties and Requirements

PSC has retrained all applicable employees on the following SOPs/training courses: On-Site Spill Management, Daily Inspections, and Part B Permit. In addition, as described under Item 1, Mr. Walker will be identifying and addressing on-site compliance issues on a full-time basis.

Item 4: Container Management Areas and Accumulation Limits

Ecology indicated that PSC is unable to accurately document the time that waste containers enter the various 24-hour staging areas. PSC is complying with the 24-hour requirement in staging areas, however, there was no documented time record of when containers were placed in staging areas. To account for this in the check-in area, PSC will record on the manifest the time that containers were off-loaded. The time will either be hand-written or stamped by automated time clock.

In all other 24-hour staging areas, the containers will be physically marked with either a grease pen or automated labeling system to indicate the date and time they were placed in the respective staging area. It will be the duty of the forklift driver who placed the material in the staging areas to note the





date and time that containers arrive in the staging area. Mr. Walker or Plant Management will inspect the container date and time to insure the 24-hour staging allowance is not exceeded.

Items 5 and 6: Container Management Practices

During the inspection, Ecology noted an unsecured container ring in row NE-10. PSC provided photo documentation to Ecology that containers in storage are closed and container rings are secured.

Ecology noted the presence of containers that were staged for an outbound load on an asphalt area that is not identified as an outbound staging area in the facility permit. The staged outbound load in question was a load of labpack containers that were shipped to an incinerator in Arkansas (Teris) on manifest 25103. The permit does allow for staging of labpacks in this area, as the container serves as secondary containment. PSC acknowledges that the area may not be used to stage non-labpack containers. PSC has provided a copies of manifest 25103, the associated labpack profiles, and photo documentation that non-labpack containers are not being staged in this area.

Item 7: Condition of Containers

Ecology noted the presence of leaking drums of waste in storage cell NE-6. The drums in question were immediately overpacked, and all applicable Kent Facility personnel have been retrained on the proper procedures for conducting inspections, filling out inspection forms, and managing an on-site spill.

Item 8: Container Management Practices

Ecology noted that one supersack container in storage cell SE-16 was leaning over, partially blocking aisle space. The supersack container was promptly corrected in the presence of Ecology on the day of the inspection. As discussed under Item 3, all applicable Kent Facility personnel have been retrained on the proper procedures for conducting inspections and filling out inspection forms. Aisle space issues were emphasized during the training. In addition to the daily inspection logs, as discussed under Item 1, as Supervisor, Mr. Walker's full-time responsibility will be to address compliance issues such as this.

Item 9: Clean Up of Released Material and Container Management Practices

Ecology noted that in storage cell NE-15 there was waste remaining on secondary containment from leaks that were not adequately cleaned up prior to resuming use in this area. PSC has provided photo documentation that residues have been cleaned up. As discussed under Item 3, all applicable Kent Facility personnel have been retrained on the proper procedures for conducting inspections, filling out inspection forms, and managing an on-site spill.

Item 10: Container Management and Process Equipment. D.1.2.3 Container Storage Operations

Ecology noted several storage stacks that had more than 48, 55-gallon containers per cell. As discussed under Item 3, all applicable Kent Facility personnel have been retrained on PSC-Kent's Part B permit, the proper procedures for conducting inspections, and filling out inspection forms. In addition, information has been added to the daily Outdoor Container Storage Area Inspection





Form to prompt the inspector to verify that the number of containers does not exceed 48 55-gallons per storage row. PSC is compiling a permit modification to request that the permit state the allowed total capacity of the cell, rather than each row.

Item 11: Container Management Areas

Ecology noted the presence of several 5-gallon carboys of liquid waste that was staged in the lab pack staging area. As discussed under Item 3, all applicable Kent Facility personnel have been retrained on PSC-Kent's Part B permit, the proper procedures for conducting inspections, and filling out inspection forms. PSC has provided Ecology with photo documentation that liquid waste containers are not being staged in this area, and copies of training rosters for the above-referenced training.

Item 12: General Waste Management

Ecology indicated that profile 331170-00, waste sodium lauryl sulfate was not adequately profiled as a WT02, Washington State Toxic Waste. PSC has reviewed the profile and tracking information for this waste, and determined that the profile was approved through PSC's Fernley, Nevada facility. Due to scheduling issues, the waste was instead routed to the PSC-Kent facility, and the profile was not locally approved through Materials Management at the PSC-Kent Corporate office. Since the issue was caused by a PreView routing system error, a system lock for PreView has been designed and is undergoing evaluation currently. The system lock will prevent profiles from being accepted at a PSC facility unless they have been specifically approved at that facility.

Upon fully implementing the PreView system lock, PSC will draft a memorandum to all affected parties, including the PSC-Fernley Facility, to communicate the issue and provide step-by-step user instructions to describe the changes that will occur to PreView. Until such time that the system lock is in place, PSC-Kent personnel will review re-routed shipments to ensure that wastestreams are properly designated for management in Washington State.

Item 13: General Waste Management and V.C Land Disposal Restrictions

Ecology indicated that Universal Waste Lamps containing mercury above 0.2 mg/L TCLP were processed as solid waste in Tank 5307. PSC has determined that this material was profiled as a STAB04 material that was intended for the on-site RCRA stabilization tanks, however, due to operator error, the material was instead processed in Tank 5307, the MRW Pool. To avoid any further confusion, PSC has completed a Record of Communication (ROC) stating that all non-recyclable fluorescent light tubes will be checked in as STAB04, and must be processed in the RCRA regulated stabilization tanks.

PSC has also recently developed an SOP on check-in procedures. PSC has trained appropriate employees who are involved with check-in and waste processing activities to this SOP. While the SOP has been reviewed and approved by management, it has not yet been finalized and incorporated into PSC's document control system.

Item 14: Permits By Rule

Ecology noted that the inspection log for the wastewater treatment area noted an unsatisfactory condition and a leaking tote of sulfuric acid, the tote was placed in secondary containment, however,



the contents were not immediately transferred to a non-leaking container. The contents of the leaking tote container were transferred to another non-leaking container on the day of the inspection. As discussed under Item 3, all applicable Kent Facility personnel have been retrained on the proper procedures for conducting inspections, filling out inspection forms, and managing an on-site spill.

Ecology Concerns

Permit Knowledge

Based on findings during the compliance inspection, Ecology asserts that PSC plant managers and the regional manager are not operating the facility with a solid knowledge of the facility permit. Specifically, Ecology is concerned about outbound load staging over asphalt and greater than 48 containers per storage row. When asked about outbound staging of containers on asphalt, Mr. Dietrich replied that outbound staging of dangerous waste was not allowed on asphalt, however, as described under Item 6, above, the load in question was an outbound load of labpacks. The facility permit does allow for staging of labpacks in this area.

When asked about the issue of storage rows having more than 48 containers, Mr. Dietrich's response was that the container capacity limit should be based on the secondary containment cell, as that is what the containment calculations are based on. For example, if you have 5 rows in a cell, with a total secondary containment capacity of 240 55-gallon containers (average of 48 containers per row x 5 rows), but 3 rows have 48 55-gallon containers, 1 row has 52 55-gallon containers, and 1 row has 36 55-gallon containers, you would still have adequate secondary containment for that cell ($48+48+48+52+36 = 232$ containers). Mr. Dietrich was making the point that the permit should state the total capacity of the cell, rather than individual rows. PSC is compiling a permit modification to request such changes.

PSC would also like to note that issues found during Ecology's inspection were communicated to all PSC-Kent employees during a formal meeting with all the shifts during the week of October 4th. All issues were read and explained by the Plant Manager and Superintendent to the staff. Open discussion allowed Management to emphasize corrective actions plans.

Labeling

PSC previously addressed this as a Compliance Problem, therefore, this issue is discussed under Item 1, above.

Waste Tracking

PSC previously addressed this as a Compliance Problem, therefore, this issue is discussed under Item 4, above.

Container Management

PSC previously addressed these items as Compliance Problems, therefore, each of these issues are discussed under Items 6 through 11 and Item 14, above.



Cylinder Storage

During the inspection, Ecology observed cylinders that were stored horizontally on wooden pallets in the storage cells. As Ecology is aware, PSC was in the process of compiling a permit modification for a compressed gas cylinder storage area. PSC has decided against pursuing the permit modification, and will instead store cylinders upright or place them in upright storage racks which will remain in the existing storage container rows. PSC has provided Ecology with photo-documentation of one of the racks, showing the cylinders being stored in an upright position. PSC will also separate oxygen cylinders from fuels cylinders by the required 20 feet.

Wastewater Treatment Unit Area

PSC will perform an in-house engineering assessment of concrete containment surfaces in the wastewater treatment area by December 1, 2004. This visual inspection will denote evidence of new cracking, containment defects, and signs of concrete deterioration. Existing crack repairs will also be inspected. A follow-up assessment will be performed at a future date, no later than six months from the initial inspection.

Both assessments will include mapping and/or photographs to document conditions and any areas of concern. Any repairs required to meet the performance standards of WAC 173-303-283 will be prioritized and completed in a timely manner. All records associated with the assessments and repairs will be kept as part of the facility operating record.

Laboratory

Ecology made numerous observations and recommendations about the Kent laboratory. Each of these issues is discussed below, separately.

The Kent lab is subject to being dirty largely due to the action of the fume hoods that are needed for proper ventilation. Dust from varying sources (the cement plant to the south, wood dust from the west lot storage, etc) tends to be drawn in and concentrate in the laboratory.

PSC disagrees with Ecology's statement regarding cross contamination of samples. Cross contamination of samples is not likely, as samples that are opened in the hoods:

- Do not share pipettes or other utensils with each other, unless utensil is properly cleaned between uses.
- Are tested using methodologies that are essentially screening methods; such methods by nature do not have the trace sensitivity to detect hypothetical changes of parameter values merely from a "dirty" environment. Furthermore, in the unlikely event that an analyst forgets to use a properly cleaned utensil between samples being testing, it is very doubtful that some inadvertent therefore negligible cross contamination would yield a statistically valid change in a parameter value relevant to subject analyses.

The majority of samples for trace analysis are not opened within the laboratory, but are closed upon sampling, and placed into coolers for delivery to the subcontracted laboratory. Those samples that are opened in the hoods for preservative addition, etc, are given the attention needed to minimize introduction of contaminants (sample containers are only briefly opened to allow preservative addition, etc.). The laboratory staff and other lab users have recently undergone Kent Lab Housekeeping training.





Samples in the lab are analyzed very soon after sampling; those not targeted for imminent testing are put in the refrigerator. PSC does not put a warm sample from a warm drum into the refrigerator for the 10 or so minutes prior to analysis, because the sample would not have a chance to cool down before analysis anyway.

PSC disagrees with Ecology's statement regarding the "off-gassing" of samples. None of the observed samples were to be analyzed for any parameter that would be affected by warm ambient temperature (i.e., volatiles). A minor temperature-induced pH error would be present if samples were at a significantly different temperature than the temperature of the standards at which the pH meter is calibrated with. The pH probe is calibrated using ambient temperature standards; therefore, error is minimized.

At the time of inspection, the red hazardous waste container was labeled as "hazardous waste" with a DOT hazard class 9 label. Also displayed were the words "satellite accumulation" and a "date" field to indicate the full-date should the container become full before being emptied.

Treatability assessments are performed on new wastestreams. Logically, the initial recipe considered is the typical recipe for the waste category. However, if the sample successfully bench treats in accordance with the usual recipe for that waste category, a new recipe would not be developed for that single wastestream. As Mr. Parry stated during the inspection, an "out of the ordinary" waste, meaning one that warrants a particularly unique treatment, gets a unique recipe.

The performance standards lie with the completed batch treatment performed on the entire 20,000-gallon consolidated batch. If the pre-discharge sample passes KC Metro effluent limits, that is an indication that the treatment worked.

PSC has revised the QAQCP for both the PSC Kent and Tacoma facilities, and a copy of the plan has been sent to Ecology for review. Upon approval of the plan, PSC will pursue a permit modification to update the plan to reflect current PSC laboratory functions.

Inspection Logs

PSC previously addressed the issue of reviewing inspection logs as a Compliance Problem, therefore, it is discussed under Item 2, above.

Item A: Ecology noted that the 8/7/04 and 8/11/04 inspection logs for the stabilization area had an "S" that was changed by Chris Dietrich to a "U" in the row for operational equipment. Ecology asked if training occurs with an employee when they make a mistake in documenting a condition during their inspection. Yes, follow-up communication does occur when a mistake is made in documenting conditions on inspection forms, and depending on the incidence of reoccurrence or the potential impact of the error, documented training may also occur. On these particular inspection forms, the issues that were noted as Unsatisfactory by Mr. Dietrich were non-functioning windshield wiper blades on operational equipment. In this situation, Mr. Dietrich verbally communicated the mistake to the inspectors.

Item B: Ecology stated that the 8/10/04 and 8/11/04 inspection logs for the 10-day transfer facility noted two transport trailers that were out of containment and on-asphalt. Mr. Dietrich wrote "non-reg half-high, OK", meaning that the half-high container was solid, non-regulated material. It is



PSC's understanding that non-regulated materials are not required to be staged in secondary containment, and thus are "OK" to be temporarily staged on asphalt.

Items C and D were previously addressed above, as Compliance Problems.

Personnel Training

Item A: Ecology noted that the training records for PSC employees Boyd, Knudson, Lopez, and Carpenter indicate that 30 training topics were covered on April 28, 2004 by Gary Crueger. The training sessions conducted on April 28th were all components of the annual 8-hour HAZWOPER refresher. A total of 9 instructors conducted training on 30 different topics; however, Mr. Crueger was listed as the primary instructor for this OSHA-required training.

Item B: Ecology noted that John Carpenter's training history indicates that he received training prior to the date that he was hired. Typically, training rosters are created with an expected training date. Upon completing training, the instructor then returns the training roster with the actual training date. It appears that these rosters were given an expected training date in January, but weren't actually trained on until later, when the newly hired employees could also be trained. Those employees added their names to the roster and the roster was recorded in the training matrix. In the case of Mr. Carpenter's training record, either the actual training date was not indicated, and therefore the expected training date was used, or the actual training date was indicated, but overlooked when recorded in the training matrix. Mr. Carpenter's training record has been corrected to reflect the actual training dates.

Ecology noted that courses #671 and #672 are listed as "pending on Mr. Carpenter's training record. Mr. Carpenter has received this training. The "pending" refers to the SOP status, not the actual training. When SOPs are newly created or modified, and are awaiting approval signatures, the classes were listed as "pending". This designation no longer appears on Mr. Carpenter's training record.

Item C: These issues were previously addressed above, as a Compliance Problems. As requested, PSC has provided Ecology with the following SOPs and the training rosters for PSC employees Lopez, Wilson, Brawley, Wick, Shorey, and Gregory:

ER-0006 On Site Spill Management
Rosters #2092, 2543

RG-0008 Impact and Cost of Non-Compliance
PP-8018 Cost of Non-Compliance (ppt presentation from 8 hour)
SD-0074 Cost of Noncompliance (supplemental training material)
Rosters #2399/2263, 2332/2260, 2421/2264, 2355/2261, 2376/2262

WT-0002 Label Maintenance & Container Integrity
Rosters #2641/2263, 2644/2260, 2640/2264, 2643/2261, 2642/2262

WS-0002 Chemical Segregation and Storage
SD-0003 Container Storage Compatibility Chart
Rosters #2606, 1707, 2606, 2657, 1642, 1619



EM-0003 Daily Inspections
Roster #2714

RG-0018 Part B Permit Training
PP-0016 Part B Overview-Kent
Rosters #1533, 1607, 1486, 1484, 188

Manifests

Item A: Ecology asked that PSC explain, in terms of the "normal course of transportation", why material from manifest 15334 was transported from San Jose, CA to the Kent Facility, offloaded, and then reloaded to 21st Century EMI. The waste material associated with manifest 15334 was transfer-only material. There was other waste on that same trailer, under a separate manifest, that was received and checked-in at the PSC-Kent facility. In order to obtain access to the waste that was intended for the PSC-Kent facility, transfer-only containers may have also been unloaded. The transfer-only containers would then be reloaded onto the trailer, and any outbound 21 EMI waste would also be added to the trailer, and a separate manifest would be produced with BEI-Kent as the generator.

Ecology further inquired why information regarding the receiving facility was crossed out, and then reentered. On this particular manifest, BEI-Kent was neither the generator, the transporter, or the designated TSDF. As stated above, this waste was transfer-only material. As such, PSC can only speculate that the Transporter initially thought that the entire trailer was to be delivered to the BEI-Kent facility, and mistakenly crossed out 21 EMI, and wrote in BEI-Kent. Upon realizing that this waste was transfer only, 21 EMI was reentered.

Item B: Ecology asked that PSC explain why the receiving facility was changed on manifest 17804, why the receiving signature was crossed out, and who Paul Wilken works for. Waste material may be rerouted to an alternate facility for any number of reasons. Generally, BEI-Kent does not receive an explanation on why waste is being rerouted. The BEI-Kent facility would concern itself with 1) whether they may receive the waste under their RCRA permit, and 2) do they have enough capacity to accept the waste. With regard to this particular manifest, Paul Wilken works for General Environmental Management (GEM), Transporter 2 on the manifest. It is unknown why Mr. Wilken signed in Box 20. Tessa Suydam, a former PSC employee, crossed out Mr. Wilken's name and appropriately signed on behalf of the BEI-Kent facility, the designated TSDF.

Wastes Processed in the MRW Tank 5307

Ecology previously addressed Items A and B as Compliance Problems, therefore, these issues are discussed above, under Items 13 and 12, respectively.

As requested, PSC has provided Ecology with copies of the referenced profiles, which identify the waste generator.

Compliance Certificate

As requested, PSC has provided Ecology with the enclosed completed Compliance Certificate, signed by Tim Smith, PSC Western Region Vice President.





If you have any questions or require any additional information, please contact me at (425) 204-7063.

Sincerely,

A handwritten signature in cursive script, reading "Laurel Muselwhite", is positioned above the printed name.

Laurel Muselwhite
Environmental Compliance Specialist

Enclosure

cc: Julie Sellick, Ecology
Dave Misko, Ecology
Leslie Morris, Ecology
Galen Tritt, Ecology



COMPLIANCE CERTIFICATE

Instructions: Return this Completed Form or Request an Extension -- Use this form to report if the action(s) needed to achieve compliance, identified during the inspection on *August 11, 2004*, have been completed. Complete the shaded portion of the table and mail a copy of this form to **Leslie Morris** by **October 30, 2004** at the following address: Washington Department of Ecology, Hazardous Waste and Toxics Reduction Program, Attention: **Leslie Morris**

An extension of the deadlines to achieve compliance may be requested. Please make a request in writing, including the reasons an extension is necessary and proposed date(s) for completion, and send it to **Leslie Morris** before the date specified above. Ecology will provide a written approval or denial of your request.

If you have any questions about information in this Compliance Report, please call:

Leslie Morris

The problems identified below must be corrected in order to be in compliance with Washington Dangerous Waste Regulations (Chapter 173-303 WAC), or other environmental laws or regulations. Please indicate the date each action is completed, or check the box under "Not Completed" and initial each item. Include any comments explaining the actions taken on a separate piece of paper.

Compliance Item	Corrective Measures Deadline	Date Completed
<p>1) Permit condition III.E.2 – Identification of Containers. THIS IS A REPEAT VIOLATION FROM THE 2002, 2003 AND MARCH 2004 INSPECTIONS.</p> <p><i>ACTION: Immediately upon receipt of this letter, institute a process to label all containers so that the information required is present and does not become obscured, removed, or otherwise unreadable for the purposes of inspection. Submit photos to show compliance with this section.</i></p>	Upon receipt of report	10/1/04 CD

Compliance Item	Corrective Measures Deadline	Date Completed
<p>2) Permit Attachment EE – Inspection Plan. THIS IS A REPEAT VIOLATION FROM THE 2002 AND 2003 INSPECTIONS.</p> <p>Section F2.3 “The inspection forms are reviewed daily by a plant supervisor. Unsatisfactory conditions which do not require repair or maintenance of equipment (e.g., torn labels, fire extinguisher out of place, etc) will be corrected by the end of the shift in which they were detected.”</p> <p>Section F2.1 “The plant manager is responsible for implementing the inspection program. ---- Specific duties may be delegated by the plant manager to employees under his supervision who are trained to perform such duties.”</p> <p><i>ACTION: Immediately upon receipt of this report, train employees on how to conduct daily inspections and how to use the inspection logs properly. Ensure that those employees are inspecting all areas of the facility. Ensure that in the future, if the plant manager is not present or able to review the inspection logs, that this duty is delegated. Submit copies of the weekly inspection logs to date for October 2004 to show compliance with this section.</i></p>	<p>Upon receipt of report</p>	<p>10/5/04 CD</p>
<p>3) Permit condition I.E.5 Duties and Requirements</p> <p><i>ACTION: Within 15 calendar days of the receipt of this report, ensure your employees are effectively performing their job responsibilities. Train or retrain employees to ensure effective performance. Ensure that PSC-Kent has adequate operation and staffing to address proper operation and maintenance of the facility. Submit documentation to show how PSC is addressing this violation.</i></p>	<p>Within 15 calendar days of receipt of report</p>	<p>10/12/04 CP</p>

Compliance Item	Corrective Measures Deadline	Date Completed
<p>4) Permit condition III.A.2.c- Container Management areas and accumulation limits. THIS IS A REPEAT VIOLATION FROM THE 2002, 2003 AND MARCH 2004 INSPECTIONS.</p> <p><i>ACTION: Within 15 calendar days of receipt of this report, institute procedures that will allow tracking and documentation of when dangerous waste enters the various 24 hour staging areas: check-in, stabilization, processing and labpack. Provide written documentation of the procedure to Ecology.</i></p>	<p>Within 15 calendar days of receipt of report</p>	<p>10/13/04 CD</p>
<p>5) Permit condition III.C.5- Container Management Practices</p> <p><i>ACTION: Upon receipt of this report, ensure that all containers are securely closed. Submit documentation and photos to show compliance with this section.</i></p>	<p>Upon receipt of report</p>	<p>10/1/04 CD</p>
<p>6) Permit condition III.C.7 - Container Management Practices</p> <p><i>ACTION: Immediately cease using areas that are not identified in the permit for container management for staging or storing. Submit documentation and photos to show compliance with this section.</i></p>	<p>Upon receipt of report</p>	<p>10/1/04 CD</p>
<p>7) Permit condition III.D.2 - Condition of Containers and II.A.1.c.</p> <p><i>ACTION: Upon receipt of this report, immediately institute inspection procedures to find and correct all leaking containers as per the permit conditions. Submit documentation and photos to show compliance with this section.</i></p>	<p>Upon receipt of report</p>	<p>9/28/04 CD</p>
<p>8) Permit condition III.C.1 - Container management practices</p> <p><i>ACTION: Upon receipt of this report, immediately institute inspection procedures to find and correct all containers blocking aisle space. Submit documentation and photos to show compliance with this section.</i></p>	<p>Upon receipt of report</p>	<p>10/1/04 CD</p>

Partial response needed mls

Compliance Item	Corrective Measures Deadline	Date Completed
<p>9) Permit Condition II.E.2. Clean Up of Released Material and III.C.3. Container Management Practices</p> <p><i>ACTION: Upon receipt of this report, immediately institute inspection and clean-up procedures that address spills to containment. Train (or retrain) employees to remove spilled or leaked waste within secondary containment immediately upon detection. Submit documentation and photos to show compliance with this section.</i></p>	<p>Upon receipt of report</p>	<p>9/28/04 CD</p>
<p>10) Permit Attachment II, pages D6 -- Container Management and Process Equipment. D.1.2.3 Container Storage Operations</p> <p><i>ACTION: Upon receipt of this report, ensure that the staff are following the facility permit and not exceeding the 48, 55 gallon drums or equivalent volume per cell limit in the storage stacks. Train or retrain staff to this permit requirement. Submit training documentation to indicate compliance with this section.</i></p>	<p>Upon receipt of report</p>	<p>10/5/04 CD</p>
<p>11) Permit Condition III.A.3.a. Container Management Areas</p> <p><i>ACTION: Upon receipt of this report, immediately cease the use of the lab pack staging area for managing non-lab pack dangerous wastes. Train or retrain staff to this permit condition. Submit training documentation and other supporting information to indicate compliance with this section.</i></p>	<p>Upon receipt of report</p>	<p>material in area were labpacks 8/11/04 CD</p>

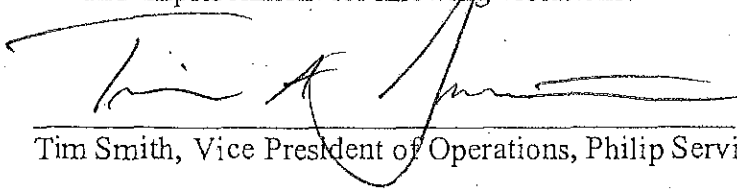
Compliance Item	Corrective Measures Deadline	Date Completed
<p>12) Permit Condition II.A.1.b. and II.A.6., General Waste Management</p> <p>Permit Attachment CC, Section C2.3.1 – “The waste profile information is provided by the generator, and must contain the information necessary to manage the waste in accordance with WAC 173-303” and Section C2.3.1 2) “The profile is reviewed by Philip to a) determine if the waste designation information is sufficient, b) decide if the waste is acceptable under Philip facility permits; and c) determine the appropriate management option for the waste.”</p> <p>Waste sodium lauryl sulfate, Profile 331170-00 designates as a Washington State Toxic Waste, with an LD50 Oral rat concentration of 1288 mg/kg, (a Category D toxic). The profile indicates this material was received as 100% sodium lauryl sulfate crystals, so an equivalent concentration calculation gives a result of 0.01% = WT02. The profile clearly indicates that the waste is a Non RCRA hazardous waste solid. This material was not adequately profiled prior to receipt and processing.</p> <p>ACTIONS: Upon receipt of this report, identify procedures to accurately and adequately identify all incoming waste streams as your waste analysis plan requires. If such procedures already exist, retrain staff on these permit and regulatory requirements. Submit training documentation. If such procedures require development, submit written procedures and training documentation to indicate compliance.</p>	Upon receipt of report	<p>procedures do require software development. written procedures are included in PSC inspection response 10/29/04</p> <p>Training will follow completion of software development.</p> <p>redevelopment</p>
<p>13) Permit Conditions II.A.1.b. General Waste Management and V.C. Land Disposal Restrictions and by reference WAC 173-303-140 and 40 CFR Part 268 Subpart D,</p> <p>Permit Attachment MM, WAC 173-303-573(35) Standards for Universal Waste Management and WAC 173-303-283(3)(b) Performance Standards.</p> <p>ACTION: Upon receipt of this report, immediately institute procedures to prevent the management of universal waste in Tank 5307. Train or retrain staff on these permit and regulatory requirements. Submit training documentation to indicate compliance.</p>	Upon receipt of report	<p>9/7/04 CD</p>

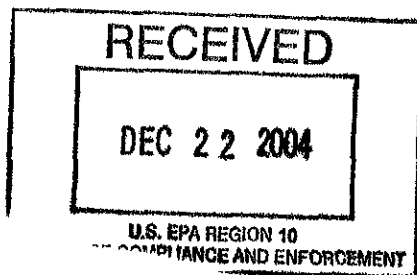
Compliance Item	Corrective Measures Deadline	Date Completed
<p>14) Permit Attachment MM, WAC 173-303-802(5)(a)(iii)(C) Permits by Rule, referencing WAC 173-303-283, Performance Standards</p> <p>The inspection log for the waste water treatment area noted the unsatisfactory condition and leaking of the tote of sulfuric acid, yet the only actions were to place the tote in uncoated containment instead of immediately transferring the contents to a container in good condition.</p> <p><i>Upon receipt of this report, train or retrain employees on proper response to on-site spills. Submit training documentation to indicate compliance.</i></p>	<p>Upon receipt of report</p>	<p>9/28/04 CD</p>

Please certify to the following:

Tim Smith, Vice President of Operations at Philip Services Corporation has responsibility for the overall operation of the BEI/PSC facility in Kent, Washington, and is duly authorized to sign all reports and other information requested pertaining to compliance with the Part B Permit. As an authorized signatory, my certification is included below:

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.


Tim Smith, Vice President of Operations, Philip Services Corporation



December 20, 2004

VIA FACSIMILE &
CERTIFIED MAIL
7001 2510 0004 4517 7859

Michael A. Bussell
Director, Office of Compliance and Enforcement
M/S OCE-164
USEPA Region 10
1200 Sixth Avenue
Seattle, WA 98101

Re: Request for Extension - 60-Day Notice of Unacceptability, Burlington Environmental Inc., Kent Facility, a wholly owned subsidiary of Philip Services Corporation (PSC), EPA ID No. WAD991281767

Dear Mr. Bussell:

As recommended by Xiang-Yu Ge during a telephone conversation on December 17, 2004, PSC would like to request an extension to EPA's 60-day Notice of Unacceptability (Notice) dated October 26, 2004, concerning the Washington State Department of Ecology's (Ecology) August 11, 2004 inspection report for the Burlington Environmental Inc., Kent Facility.

PSC is requesting an extension to the Notice to allow ample time for resolution of issues associated with Ecology's August 11, 2004 inspection report for the Burlington Environmental Inc., Kent Facility. The following timetable outlines the order of events thus far:

- August 11, 2004 - Ecology conducts an inspection of the BEI-Kent facility
- September 29, 2004 - Ecology issues a report for the August 11, 2004 inspection
- October 26, 2004 - EPA issues 60-day Notice of Unacceptability
- October 29, 2004 - PSC responds to Ecology's September 29, 2004 report
- November 12, 2004 - PSC responds to EPA's 60-day Notice of Unacceptability
- December 8, 2004 - Ecology responds to PSC's October 29, 2004 correspondence, closing out all but one of the outstanding issues from the August 11, 2004 inspection.

Based on this schedule, PSC suggests an extension to the Notice until January 31, 2005, so that time would be available, if needed, for additional correspondence or follow-up. PSC will submit a response to Ecology's December 8, 2004 letter by December 23, 2004.

If you have any questions or require any additional information, please contact me at (425) 204-7063.





Sincerely,

A handwritten signature in cursive script, reading "Laurel Muselwhite", is positioned below the word "Sincerely,".

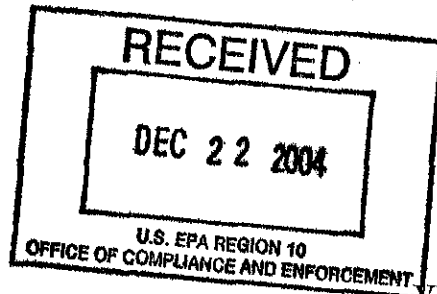
Laurel Muselwhite
Environmental Compliance Specialist

Enclosure

cc: Xiang-Yu Ge, EPA ✓
Leslie Morris, Ecology
Galen Tritt, Ecology



Xiang-yu
-ge



December 20, 2004

VIA FACSIMILE &
CERTIFIED MAIL
7001 2510 0004 4517 7859

Michael A. Bussell
Director, Office of Compliance and Enforcement
M/S OCE-164
USEPA Region 10
1200 Sixth Avenue
Seattle, WA 98101

Re: Request for Extension - 60-Day Notice of Unacceptability, Burlington Environmental Inc., Kent Facility, a wholly owned subsidiary of Philip Services Corporation (PSC), EPA ID No. WAD991281767

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If you have any questions or require any additional information, please contact me at (425) 204-7063.





Sincerely,

A handwritten signature in black ink, which appears to read "Laurel Muselwhite". The signature is fluid and cursive, written over the printed name.

Laurel Muselwhite
Environmental Compliance Specialist

Enclosure

cc: Xiang-Yu Ge, EPA
Leslie Morris, Ecology
Galen Tritt, Ecology





UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 10
1200 Sixth Avenue
Seattle, WA 98101

JAN 28 2005

Reply To
Attn Of: WCM-126

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Mr. Morris Azose, Vice President, Regulatory Affairs
By-Products Management Group
Philip Services Corporation
18000 72nd Avenue S Suite 217
Kent, WA 98032

Re: Comprehensive Environmental Response Compensation and Liability Act (CERCLA)
Off-Site Rule: Acceptability Determination for Burlington Environmental Inc., a wholly
owned subsidiary of Philip Services Corporation, Kent, Washington
EPA ID No. WAD 99128 1767

Dear Mr. Azose:

The purpose of this letter is to notify you that the United States Environmental Protection Agency (EPA) has determined that the Burlington Environmental Inc., a wholly owned subsidiary of Philip Services Corporation (Philip/BEI) facility at 20245 77th Avenue South, Kent, Washington, EPA ID No. WAD 99128 1767, is currently acceptable for the receipt of CERCLA Off-Site waste. Off-Site waste is defined as waste generated as a result of activities authorized pursuant to, or funded by, the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA).

On September 22, 1993, the final CERCLA Off-Site Rule was published in the **Federal Register**, a copy of which is enclosed. The purpose of the Off-Site Rule is to ensure that disposal of CERCLA wastes does not contribute to present or future environmental problems by ensuring that these wastes are directed to facilities which are environmentally sound. Section 121(d)(3) of CERCLA, 42 U.S.C. §9621(d)(3), as amended, describes procedures that must be observed when a response or remedial action under CERCLA involves the off-site management of CERCLA wastes. The Off-Site Rule implements the requirements of section 121(d)(3) of CERCLA.

On October 26, 2004, EPA issued the Philip/BEI Facility at 20245 77th Avenue South, Kent, Washington, EPA ID No. WAD 99128 1767, a 60-Day Notice of Unacceptability. The Notice of Unacceptability was based on inspection dated August 11, 2004, conducted by the Washington State Department of Ecology (Ecology). Ecology and EPA have received and reviewed Philip/BEI's written submittals of October 29 and December 23, 2004, stating that the facility has addressed the items of non-compliance. In addition, Ecology conducted a follow-up inspection on December 22, 2004, to confirm compliance. Based on the information provided, EPA has determined that Philip/BEI is acceptable for the receipt of CERCLA Off-Site waste. Therefore, Philip/BEI remains acceptable in accordance with 40 CFR §300.440, the CERCLA Off-Site Rule, and federal agencies are allowed under the CERCLA Off-Site Rule to continue to

If you have any questions concerning this notice, please contact Xiang-Yu Ge of my staff by telephone at 206-553-2859 or by email at ge.xiang-yu@epa.gov.

Sincerely,

Betty A. Wiese, Manager
Air and RCRA Compliance Unit

cc: Dave Misko, Washington State Department of Ecology, NWRO
Leslie Morris, Washington State Department of Ecology, NWRO
Julie Sellick, Washington State Department of Ecology, NWRO
Greg Sorlie, Washington State Department of Ecology, Olympia
Galen Tritt, Washington State Department of Ecology, NWRO

bcc: Jack Boller
Xiang-Yu Ge, EPA
Bob Hartman, EPA
Barbara McCullough
Linda Meyer, EPA
Judi Schwarz, EPA

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		CONCURRENCES		POLICY FILE	
Initials:	<i>[Signature]</i>	REH		Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
Name:	Xiang-Yu Ge OCE	Robert Hartman ORC		If policy file please bcc to RMSPU Manager	
Date:	1/28/05	1/28/05			
RCRAInfo EVENT		Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>		
SNC IDENTIFICATION		Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>		
(Can it be entered in RCRAInfo?)		Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>		
SBREFA INFO VERIFICATION		Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>		
PEER REVIEW		Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>		
REGION 9 POLICY FILE		Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>		



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 10
1200 Sixth Avenue
Seattle, WA 98101

OCT 26 2004

Reply To
Attn Of: OCE-127

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Mr. Morris Azose, Vice President, Regulatory Affairs
By-Products Management Group
Philip Services Corporation
955 Powell Avenue, SW
Renton, WA 98055

Re: 60-DAY NOTICE OF UNACCEPTABILITY
Under the CERCLA Off-Site Rule and Opportunity for Informal Conference
EPA ID No. WAD 99128 1767

Dear Mr. Azose:

The purpose of this letter is to notify you that the United States Environmental Protection Agency (EPA) has determined that the facility at 20245 77th Ave South, Kent, Washington, EPA ID No. WAD 99128 1767 owned and operated by Burlington Environmental Inc., a wholly owned subsidiary of Philip Services Corporation (Philip/BEI), is unacceptable for the receipt of Off-Site wastes generated as a result of removal or remedial activities under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), as amended.

On September 22, 1993, the final Off-Site Rule was published by EPA in the **Federal Register**, a copy of which is enclosed. The purpose of the Off-Site Rule is to ensure that disposal of CERCLA wastes does not contribute to present or future environmental problems by ensuring that these wastes are directed to facilities which are environmentally sound. Section 121(d)(3) of CERCLA, 42 U.S.C. §9621(d)(3), as amended, describes procedures that must be observed when a response action under CERCLA involves off-site management of CERCLA wastes. The Off-Site Rule implements the requirements of section 121(d)(3) of CERCLA.

The Off-Site Rule requires, among other things, that for a facility to be acceptable for receipt of CERCLA Off-Site waste, there must be no relevant violations at or affecting the receiving units. 40 CFR §300.440(b)(1)(ii) states that "relevant violations" include, among other things, significant deviation from regulations, compliance order provisions, or permit conditions designed to: ensure that CERCLA waste is destined for and delivered to authorized facilities; or prevent releases of hazardous waste, hazardous constituents, or hazardous substances to the environment.

On August 11, 2004, the Washington State Department of Ecology's (Ecology) Hazardous Waste and Toxics Reduction Program conducted an inspection of the Philip/BEI Kent facility. This inspection was conducted to determine compliance with the standards of treatment, storage, and disposal facilities as specified in the facility's Dangerous Waste permit and by reference the Washington State Dangerous Waste Regulations, Chapter 173-303 WAC. Based on the inspection findings documented in the September 29, 2004, Hazardous Waste and Toxics Reduction Program Compliance Report, Ecology has identified violations of Dangerous Waste permit conditions and the applicable regulations.

Pursuant to 40 CFR §300.440(c)(1), after consulting with Ecology and based on available

information from the inspection, EPA has determined that all of the documented violations in the above-referenced Compliance Report, a copy of which is enclosed, constitute relevant violations for purposes of the Off-Site Rule, and warrant an unacceptability determination for the Philip/BEI Services Corporation facility at 20245 77th Ave South, Kent, Washington, EPA ID No. WAD 99128 1767. Pursuant to 40 CFR §300.440 (d)(3), this determination of unacceptability becomes effective sixty (60) calendar days from issuance of this Notice. Since this Notice is effective upon issuance and not upon receipt, we have transmitted by telefax a copy of this letter on the date of issuance. On the date this unacceptability determination becomes effective, the responsible agency and/or private entities shall cease the transport of CERCLA waste to your facility in accordance with the Off-Site Rule.

The Off-Site Rule provides Philip/BEI an opportunity for an informal conference with EPA Region 10 staff and legal counsel to discuss the basis for the facility's unacceptability determination. The informal conference request must be made (in writing) within ten (10) calendar days from the date of this letter. In lieu of holding such a conference, you may submit written comments to the address below within 30 calendar days from the date of this letter. EPA will inform Philip/BEI in writing whether or not the information provided is sufficient to support a determination of acceptability. EPA reserves the right, pursuant to 40 CFR §300.440 (d)(9) to determine that the facility's unacceptability status is effective immediately at any time after the date of this Notice.

If a determination of unacceptability is confirmed after an informal conference or the submission of written comments, you may request that the Regional Administrator review the determination. Such a request must be made in writing within ten (10) calendar days after you have received notice of confirmation of EPA's determination. If possible, such a review by the Regional Administrator will be conducted within sixty (60) calendar days of this letter. Under no circumstances, however, will the request for review stay the effective date of the determination.

If you wish to request an informal conference, or to submit written comments, they should be addressed to Robert Hartman, Assistant Regional Counsel, M/S ORC-158, U.S. EPA, 1200 Sixth Avenue, Seattle, Washington 98101. If you have any questions regarding this letter they should be directed to Mr. Hartman at 206-553-0029.

Sincerely,



Michael A. Bussell, Director
Office of Compliance and Enforcement

Enclosures

cc: Dave Misko, Washington State Department of Ecology, NWRO
Julie Sellick, Washington State Department of Ecology, NWRO
Galen Tritt, Washington State Department of Ecology, NWRO
Leslie Morris, Washington State Department of Ecology, NWRO
Greg Sorlie, Washington State Department of Ecology, Olympia



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 10
1200 Sixth Avenue
Seattle, WA 98101

Mr. Azose

DEC 22 2004

Reply To
Attn Of: OCE-127

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Mr. Morris Azose, Vice President, Regulatory Affairs
By-Products Management Group
Philip Services Corporation
955 Powell Avenue SW
Renton, Washington 98055

**Re: Comprehensive Environmental Response Compensation and Liability Act
(CERCLA) Off-Site Rule: Extension to the 60-Day Notice of Unacceptability
EPA ID No. WAD 99128 1767**

Dear Mr. Azose:

On October 26, 2004, the U.S. Environmental Protection Agency (EPA) issued an Off-Site 60-Day Notice of Unacceptability letter, indicating that the facility at 20245 77th Avenue South, Kent, Washington, EPA ID No. WAD 99128 1767 owned and operated by Burlington Environmental Inc., a wholly owned subsidiary of Philip Services Corporation (Philip/BEI), is unacceptable for the receipt of Off-Site wastes generated as a result of removal or remedial activities under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), as amended. On December 20, 2004, EPA received a request and additional information from the Philip/BEI to extend the 60-Day Notice of Unacceptability.

Pursuant to 40 CFR §300.440(d)(8), in limited cases, EPA may use its discretion to extend the 60-day period. Based on the additional information provided by Philip/BEI it was determined that the facility is actively negotiating with EPA and Ecology for returning to compliance, and that Ecology is requesting additional information from the facility to analyze whether or not the facility has addressed and corrected all relevant violations. Based on the information submitted, EPA hereby grants Philip/BEI an extension of the 60-Day Notice of Unacceptability to January 31, 2005.

If you have any questions regarding this letter you may write Robert Hartman, Assistant Regional Counsel, M/S ORC-158, U.S. EPA, 1200 Sixth Avenue, Seattle, Washington, 98101, or call him at 206-553-0029.

Sincerely,

Michael A. Bussell, Director
Office of Compliance and Enforcement

cc: Dave Misko, Washington State Department of Ecology, NWRO
Julie Sellick, Washington State Department of Ecology, NWRO
Galen Tritt, Washington State Department of Ecology, NWRO
Leslie Morris, Washington State Department of Ecology, NWRO
Greg Sorlie, Washington State Department of Ecology, Olympia

bcc: Bob Hartman, EPA
✓Xiang-Yu Ge, EPA
Jack Boller, EPA
Carla Fisher, EPA
Judi Schwarz, EPA

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CONCURRENCES				POLICY FILE	
Initials:	<i>XYG</i>	<i>RH</i>	<i>SW</i>		Yes <input type="checkbox"/> No <input type="checkbox"/>
Name:	Xiang-Yu Ge	Robert Hartman ORC	Betty Wiese, Mgr. Air/RCRA		If policy file please bcc to RMSPU Manager
Date:	12/21/04	12/21/04	12/22/04		
RCRIS EVENT		Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>			
SNC IDENTIFICATION		Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>			
(Can it be entered in RCRIS?)		Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>			
SBREFA INFO VERIFICATION		Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>			
PEER REVIEW		Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>			
REGION 9 POLICY FILE		Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>			



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 10
1200 Sixth Avenue

Reply to the
Attention of: OCE-127

JUN 14 2007

CERTIFIED MAIL NUMBER 7007 0710 0004 4459 3900
RETURN RECEIPT REQUESTED

David Dalton, President
Pacific Ecosolutions, Inc.
2025 Battelle Boulevard
Richland, Washington 99354

Re: Off-Site Rule Response -- Facility Unacceptable for Receipt of CERCLA Remedial Wastes
Pacific Ecosolutions, Inc.,
EPA ID Number WAR 00001 0355

Dear Mr. Dalton:

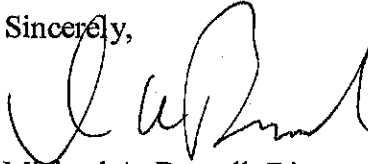
The purpose of this letter is to notify you that the U.S. Environmental Protection Agency, Region 10 (EPA), has determined that conditions exist at the facility at Pacific Ecosolutions, Inc. (PEcoS), 2025 Battelle Boulevard, Richland, Washington 99354, which render this facility unacceptable for the receipt of off-site wastes generated as a result of removal or remedial activities under the Comprehensive Environmental Response, Compensation and Liability Act, as amended (CERCLA or Superfund), 42 U.S.C. § 9601 seq.

This determination of unacceptability becomes effective sixty (60) calendar days from receipt of this notice. Once this determination becomes effective, the facility will remain unacceptable for receipt of CERCLA wastes until notification by EPA that the facility is again acceptable to receive such wastes. The implementation of this notice does not prohibit EPA or delegated state programs from taking appropriate enforcement actions under CERCLA or the Resource Conservation and Recovery Act, as amended (RCRA), 42 U.S.C. § 6901 et seq.

On September 22, 1993, the final Off-site Rule was published by EPA in the Federal Register. The purpose of the Off-site Rule is to avoid having Superfund wastes contribute to present or future environmental problems by ensuring that these wastes are directed to facilities which are environmentally sound. Section 121(d)(3) of CERCLA, 42 U.S.C. § 9621(d)(3), describes procedures that must be observed when a response action under CERCLA involves off-site management of CERCLA wastes. The Off-site Rule implements the requirements of Section 121(d)(3) of CERCLA. A copy of the Off-site Rule is enclosed for your review.

This letter is being sent to you both by certified and first class mail, in order to ensure that you receive it promptly. If you wish to request an informal conference, or to submit written comments, or if you have any questions regarding this letter, you may write to Robert Hartman, Assistant Regional Counsel, M/S ORC-158, U.S. Environmental Protection Agency, 1200 Sixth Avenue, Seattle, Washington 98101; by email to Hartman.Bob@epa.gov or by telephone at (206) 553-0029

Sincerely,

A handwritten signature in black ink, appearing to read "Michael A. Bussell", written over the word "Sincerely,".

Michael A. Bussell, Director
Office of Compliance and Enforcement

cc: Ron Skinnerland, Ecology

0726
Group B

PermaFix®
Northwest, Inc.

VIA ELECTRONIC & CERTIFIED MAIL

Mr. Michael Bussell
U.S. Environmental Protection Agency
Region 10, (ORC-158)
1200 Sixth Avenue
Seattle, WA 98101

2007-LTR-0945
August 9, 2007

RE: Notice of Violation/CERCLA Off-Site Rule Determination of Unacceptability
Pacific EcoSolutions, Inc.
EPA ID Number WAR 00001 0355
Third Follow Up Response Letter for Notice of Violation # 1

Dear Mr. Bussell:

I am writing in follow up to the above referenced Notice of Violation (NOV), which was received by Pacific EcoSolutions, Inc. (PEcoS) on or about June 18, 2007. The purpose of this correspondence is to provide a third follow up response to alleged Violation # 1 cited in the NOV, in particular to provide an update on actions taken to address concerns noted in the NOV.

The substantive text of the June 18, 2007 Notice of Violation (NOV) is presented below in its entirety (and indicated by italicized text), followed by the updated Perma-Fix Northwest, Inc (PFNW) response.

1. Storage of Waste Generated Onsite for More than One Year

Permit condition 2.11 of Attachment LL states that "(o)nsite generated waste will be treated and/or shipped off-site within on year after generation."

At the time of this inspection, in Storage Bay WSB4, the inspectors observed approximately 350 to 400 drums; 182 of these drums were tracked by PEcoS as "legacy waste," which is managed on a timeline agreed to by Ecology outside of the permit. Of the approximately 200 drums of non-legacy waste in WSB 4, about 25% had been in storage for over one year after generation by PEcoS, in violation of permit condition 2.11 of Attachment LL.

Response

In response to this concern, PFWN has shipped offsite containers of PEcoS generated waste over one year. These ten containers were shipped as scheduled on August 8, 2007 to DSSI. (Please note the original schedule included in Attachment 2 of our first response letter (2007-LTR-0939) to the NOV indicated shipment to the M&EC facility.) Future shipments of PEcoS generated waste over one year from generation date are scheduled for August 10th and August 14th. All future shipments of PEcoS generated waste over one year are scheduled to be shipped before August 17, 2007.

2025 Battelle Boulevard · Richland, Washington 99354

Tel. (509) 375-5160 · Fax (509) 375-0613

www.perma-fix.com

2007-LTR-0945

Attachment One

Uniform Hazardous Waste Manifest 001570726 JJK

UNIFORM HAZARDOUS WASTE MANIFEST (Continuation Sheet)		21. Generator ID Number WARD000010355	22. Page	23. Manifest Tracking Number				
24. Generator's Name Pacific EcoSolution Inc /Perma-Fix								
25. Transporter Company Name CAST Transportation				U.S. EPA ID Number COR000005390				
26. Transporter Company Name				U.S. EPA ID Number				
GENERATOR	27a. HM	27b. U.S. DOT Description (Including Proper Shipping Name, Hazard Class, ID Number, and Packing Group (if any))	28. Containers No. Type		29. Total Quantity	30. Unit Wt./Vol.	31. Waste Codes	
	X	Hazardous Waste Solid, n.o.s. 9, NA3077 PGIII (Limited Quantity of Radioactive Material)	1	DM	129	K	F001	F002 F003 F004 F005
	X	Hazardous Waste Solid, n.o.s. 9, NA3077 PGIII (Limited Quantity of Radioactive Material)	1	DM	129	K	F001	F002 F003 F004 F005
	X	Hazardous Waste Solid, n.o.s. 9, NA3077 PGIII (Limited Quantity of Radioactive Material)	1	DM	138	K	F001	F002 F003 F004 F005
	X	Hazardous Waste Solid, n.o.s. 9, NA3077 PGIII (Limited Quantity of Radioactive Material)	1	DM	154	K	F001	F002 F003 F004 F005
	X	Hazardous Waste Solid, n.o.s. 9, NA3077 PGIII (Limited Quantity of Radioactive Material)	1	DM	150	K	F001	F002 F003 F004 F005
	X	Hazardous Waste Solid, n.o.s. 9, NA3077 PGIII (Limited Quantity of Radioactive Material)	1	DM	166	K	F001	F002 F003 F004 F005
	X	Waste, Radioactive Material, low specific activity (LSA-II), 7, UN3321, Solid/Oxide, Cs137 1.01E-3 TBq, Fissile-Exempted	1	CM	1861	K	F001	F002 F003 F004 F005
	X	Hazardous Waste Solid, n.o.s. 9, NA3077 PGIII (Limited Quantity of Radioactive Material)	1	DM	154	K	F001	F002 F003 F004 F005
	X	Hazardous Waste Solid, n.o.s. 9, NA3077 PGIII (Limited Quantity of Radioactive Material)	1	CM	590	K	F001	F002 F003 F004 F005
	X	Hazardous Waste Solid, n.o.s. 9, NA3077 PGIII (Limited Quantity of Radioactive Material)	0	CM	580	K	F001	F002 F003 F004 F005
	32. Special Handling Instructions and Additional Information 27 b.1) MW01500310 27 b.2) MW01500383 27 b.3) MW01500384 27 b.4) MW01500385 27 b.5) MW01500388 27 b.6) MW03500144 27 b.7) MW04500257 27 b.8) MW06600462 27 b.9) MW06601169 27 b.10) MW06601180							
TRANSPORTER	33. Transporter Acknowledgment of Receipt of Materials Printed/Typed Name Signature Month Day Year							
	34. Transporter Acknowledgment of Receipt of Materials Printed/Typed Name Signature Month Day Year							
DESIGNATED FACILITY	35. Discrepancy							
	36. Hazardous Waste Report Management Method Codes (i.e., codes for hazardous waste treatment, disposal, and recycling systems)							

2007-LTR-0945

Attachment Two

Corrected ATG-PEcoS Waste Inventory Ship Schedule



CERTIFIED MAIL

Mr. Michael A. Bussell
Environmental Protection Agency-Region 10
Office of Compliance and Enforcement
1200 Sixth Avenue, OCE-164
Seattle, WA 98101

July 6, 2007
2007-LTR-0928

Mr. Robert Hartman
Environmental Protection Agency, Region 10
Assistant Regional Counsel
1200 Sixth Avenue, ORC-158
Seattle, WA 98101

**RE: Pacific EcoSolutions owned by Perma Fix Environmental Services
Mixed Waste Facility
Site Identification Number WAR000010355
Request for a 30 Day Extension to the Off-Site Rule Response – Facility Unacceptable for Receipt
of CERCLA Remedial Wastes**

Dear Mr. Bussell and Mr. Hartman,

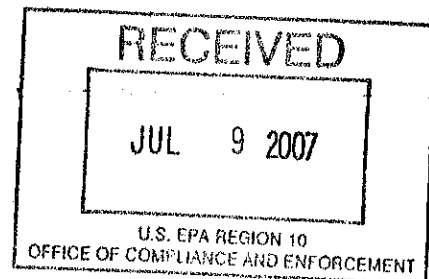
Pacific EcoSolutions, Inc. owned by Perma Fix Environmental Services (PESI) is in receipt of the letters dated June 14, 2007 titled Notice of Violation and Off-Site Rule Response – Facility Unacceptable for Receipt of CERCLA Remedial Wastes. In order for Pacific EcoSolutions and the U.S. Environmental Protection Agency (EPA) to resolve the issues associated with the March 6, 2007 inspection we respectfully request that EPA grant a 30 day extension to schedule associated with Off-Site Rule Response. Should you or your staff have any questions regarding this matter, please feel free to contact me at (509) 375-7022 or jgranger@perma-fix.com.

Thank you,

A handwritten signature in black ink, appearing to read "Jamie Granger".

Jamie Granger
Regulatory Compliance Officer

cc: Sylvia Burges, EPA
Curt Cannon,
Dan Duncan, EPA
Sterling Derrick, Ecology
Richard Grondin,
Linda Meyer, EPA
Regulatory File (PEcoS/PESI)





UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 10
1200 Sixth Avenue
17 AUG 2007

Reply to the
Attention of: OCE-127

CERTIFIED MAIL NUMBER 7007 0710 0004 4459 4143
RETURN RECEIPT REQUESTED

Richard Grondin, Vice President
Perma-Fix Northwest
2025 Battelle Boulevard
Richland, Washington 99354

Re: Off-Site Rule Letter; Extension of Sixty-Day Period
Perma-Fix Northwest, Inc., Facility
EPA ID No WAR 00001 0355

Dear Mr. Dalton:

On June 14, 2007, the U. S. Environmental Protection Agency, Region 10 (EPA) notified Perma-Fix Northwest (then doing business as Pacific Ecosolutions, Inc.) that conditions existed at the facility which rendered the facility unacceptable for the receipt of off-site wastes generated as a result of removal or remedial activities under the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. § 9601 *et seq.* Specifically, there were seven separate regulatory and permit violations cited in a Notice of Violation (NOV) issued to Perma-Fix Northwest on June 14, 2007. The letter stated that the determination of unacceptability would become effective on August 17, 2007, 60 calendar days from receipt of the notice, unless information presented by Perma-Fix Northwest supports a finding of acceptability.

Based on information provided to EPA by Perma-Fix Northwest to date, it appears that, *for purposes of the Off-Site Rule*, 40 C.F.R. § 300.440, six of the seven violations are no longer ongoing, and therefore are no longer "relevant violations" pursuant to 40 C.F.R. § 300.440(b). It is noted, however, that further compliance actions are still required by Perma-Fix Northwest to fully resolve those violations *for purposes of the NOV*.

Violation 2 in the NOV, the failure to dispose of PCB waste in storage within one year, has not been resolved and is still a "relevant violation" for purposes of the Off-Site Rule. On July 6, 2007, Perma-Fix Northwest submitted to EPA a permit modification request which would amend the facility's Toxic Substances Control Act permit to allow for sampling of the PCB waste in question in order to facilitate analysis and subsequent shipment off-site. On August 16, 2007, EPA approved this modification.

If you have any questions regarding this letter, please write Robert Hartman, Assistant Regional Counsel, M/S ORC-155, U.S. Environmental Protection Agency, 1200 Sixth Avenue, Seattle, Washington 98101, or call Mr. Hartman at (206) 553-0029, or email at Hartman.Bob@epa.gov



Sincerely,

Michael A. Bussell, Director
Office of Compliance and Enforcement

cc: Ron Skinnerland, Ecology

bcc: S. Burges
D. Duncan
J. Shirley
C. Williams
K. Schanilec ✓
B. Hartman
J. Boller
L. Meyer
B. McCullough

L:\Air-RCRA\Schanilec\Permafrix-ms.doc

CONCURRENCES				POLICY FILE	
Initials			Meg Silver Via email for		Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
Name:	Scharfilec	Kenknight	Hartman		If policy file please bcc to RMSPU Manager
Date:	8/16	8/17/2007	8/16/07		
RCRAInfo EVENT			Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	4c	
SNC IDENTIFICATION			Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>		
(Can it be entered in RCRAInfo?)			Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>		
SBREFA INFO VERIFICATION			Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>		
PEER REVIEW			Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>		
REGION 9 POLICY FILE			Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>		



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 10
1200 Sixth Avenue
17 AUG 2007

Reply to the
Attention of: OCE-127

CERTIFIED MAIL NUMBER 7007 0710 0004 4459 4143
RETURN RECEIPT REQUESTED

Richard Grondin, Vice President
Perma-Fix Northwest
2025 Battelle Boulevard
Richland, Washington 99354

Re: Off-Site Rule Letter; Extension of Sixty-Day Period
Perma-Fix Northwest, Inc., Facility
EPA ID No WAR 00001 0355

Dear Mr. Dalton:

On June 14, 2007, the U. S. Environmental Protection Agency, Region 10 (EPA) notified Perma-Fix Northwest (then doing business as Pacific Ecosolutions, Inc.) that conditions existed at the facility which rendered the facility unacceptable for the receipt of off-site wastes generated as a result of removal or remedial activities under the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. § 9601 *et seq.* Specifically, there were seven separate regulatory and permit violations cited in a Notice of Violation (NOV) issued to Perma-Fix Northwest on June 14, 2007. The letter stated that the determination of unacceptability would become effective on August 17, 2007, 60 calendar days from receipt of the notice, unless information presented by Perma-Fix Northwest supports a finding of acceptability.

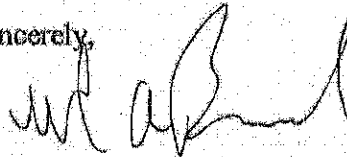
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Violation 2 in the NOV, the failure to dispose of PCB waste in storage within one year, has not been resolved and is still a "relevant violation" for purposes of the Off-Site Rule. On July 6, 2007, Perma-Fix Northwest submitted to EPA a permit modification request which would amend the facility's Toxic Substances Control Act permit to allow for sampling of the PCB waste in question in order to facilitate analysis and subsequent shipment off-site. On August 16, 2007, EPA approved this modification.

Now that EPA has amended Perma-Fix Northwest's permit, the company can proceed to analyze the PCB waste, ship it off-site, and report its complying actions to EPA. Therefore, "because more time is needed to review a submission," EPA hereby grants an extension to the 60-day period pursuant to 40 C.F.R. § 440.300(d)(8). As discussed with Perma-Fix Northwest on August 9, 2007, the PCB waste in question must be properly transported from the Perma-Fix Northwest facility for eventual treatment and/or disposal and reported to EPA within 30 days of receipt of the approved permit modification.

If you have any questions regarding this letter, please write Robert Hartman, Assistant Regional Counsel, M/S ORC-155, U.S. Environmental Protection Agency, 1200 Sixth Avenue, Seattle, Washington 98101, or call Mr. Hartman at (206) 553-0029, or email at Hartman.Bob@epa.gov

Sincerely,



Michael A. Bussell, Director
Office of Compliance and Enforcement

cc: Ron Skinnerland, Ecology

PermaFix®
Northwest, Inc.

VIA ELECTRONIC & CERTIFIED MAIL

Mr. Michael Bussell
U.S. Environmental Protection Agency
Region 10, (OCE-164)
1200 Sixth Avenue
Seattle, WA 98101

2007-LTR-0939
August 1, 2007

RE: Notice of Violation/CERCLA Off-Site Rule Determination of Unacceptability
Pacific EcoSolutions, Inc.
EPA ID Number WAR 00001 0355

Dear Mr. Bussell:

I am writing in follow up to the above referenced Notice of Violation (NOV), which was addressed to Pacific EcoSolutions, Inc. (PEcoS) on or about June 18, 2007. (See Attachment 1). The purpose of this correspondence is to provide a detailed response to each of the alleged violations cited in the NOV, to provide an update on actions taken or will be taken in response to the alleged violations, and to otherwise address concerns noted in the NOV.

Since the NOV was cited by EPA in a separate "CERCLA determination of unacceptability" notification (also addressed to PEcoS on or about June 18, 2007), it is imperative that these allegations are resolved as quickly as possible. (See Attachment 1). To that end, this correspondence also serves as Perma-Fix Northwest written comments in response to the "determination of unacceptability."

Each of the allegations and concerns set forth in the NOV and an item-by-item response are provided in this letter with supporting documentation included in Attachments 2 through 7. We have consulted, and continue to consult, with U.S. Environmental Protection Agency Region 10 (EPA) and Washington State Department of Ecology technical staff regarding the allegations and concerns set forth in the NOV (and referenced in the determination of unacceptability). We have developed our responses, completed corrective actions and planned corrective actions accordingly. We trust that our written response and corrective actions are satisfactory for purposes of resolving the NOV and supporting a "finding of acceptability" to address the CERCLA Off-site Rule concerns.

On behalf of Perma-Fix Northwest, Inc. (PFNW), I would like to express appreciation for your patience and understanding as we fully complete the transition and transformation of the former management and operations, which was begun when we Perma-Fix Environmental Services, Incorporated (PESI) acquired PEcoS from Nuvotec, USA, Inc. last month. We are hopeful upon your review of our responses that EPA will agree that PFWN has taken this NOV seriously and has taken appropriate corrective actions.

2025 Battelle Boulevard · Richland, Washington 99354

Tel. (509) 375-5160 · Fax (509) 375-0613

www.perma-fix.com

The substantive text of the June 18, 2007 Notice of Violation (NOV) is presented below in its entirety (and indicated by italicized text), followed by Perma-Fix Northwest, Inc (PFNW) responses to U.S. Environmental Protection Agency Region 10 (EPA).

1. Storage of Waste Generated Onsite for More than One Year

Permit condition 2.11 of Attachment LL states that "(o)nsite generated waste will be treated and/or shipped off-site within on year after generation."

At the time of this inspection, in Storage Bay WSB4, the inspectors observed approximately 350 to 400 drums; 182 of these drums were tracked by PEcoS as "legacy waste," which is managed on a timeline agreed to by Ecology outside of the permit. Of the approximately 200 drums of non-legacy waste in WSB 4, about 25% had been in storage for over one year after generation by PEcoS, in violation of permit condition 2.11 of Attachment LL.

Response

In response to this concern, PFNW reviewed its inventory records and has broken the wastes for this response into two categories:

A. Pacific EcoSolutions, Inc. (PEcoS) generated waste over 1 year from generation date.

This waste consists of various matrices including but not limited to filters, filter media, secondary RTD liquid waste, Bi-Carb, and 'trash' type wastes. The attached table (see Attachment 2) includes the containers in this category as well as the currently scheduled shipping dates. The shipping dates on the table show that the waste will be offsite by August 17, 2007. Additionally, a second response to the NOV is planned and this response will transmit copies of the manifests for these containers to EPA.

Really by Aug 14th PM

The drums identified in the following table were specifically identified during the March 6, 2007 inspection. These drums were PEcoS trash (PPE, decon towels, etc.) generated from cleanup around the Rotary Thermal Desorber (RTD) condensate skid; therefore, not attributable to a specific generator. These drums have been compacted and will be sent to EnergySolutions for treatment and final disposal. Please note that they are currently identified below and rolled up in the line item for PEcoS macroencapsulated waste scheduled for shipment on August 7, 2007.

Identified Drum Number	Current package
MW06600104	MW07700218
MW06600081	MW07700219
MW05500452	MW07700218

Given the above, PFNW respectfully disagrees with EPA's assertion that the continued storage of these eight (8) containers constitutes a violation of Permit Condition II.F.5.f. PFNW is nevertheless prepared to ship the materials offsite to an authorized treatment facility.

Please be advised that PEcoS had taken the following steps in preparing for the potential shipment of the containers to an approved offsite treatment facility:

- a. PEcoS has submitted information to generate a waste profile for disposal of PCB demonstration material at Clean Harbors' facility in Utah. The waste profile has been conditionally approved by Clean Harbors.
- b. On May 7, 2007, Clean Harbors notified PEcoS that they will accept the PCB Demonstration Material for disposal. The shipment of the PCB Demonstration Material will occur when additional waste characterization is obtained to determine the PCB Demonstration Material is not radioactive. PFNW respectfully maintains they do not have enough process knowledge to support the conclusion that the PCB Demonstration Material is not radioactive.
- c. On May 18, 2007, PEcoS submitted a permit modification request (PMR) to EPA to allow for the sampling of the PCB Demonstration Material. Since Clean Harbors can only accept TSCA material that does not contain regulated radioactive constituents, the purpose of the PMR is to obtain approval to sample and confirm the material is not radioactive. (See Attachment 3 for the PMR.)
- d. On May 25, 2007, PEcoS scheduled a teleconference call with EPA to discuss their comments on the PMR for sampling the PCB Demonstration Material.
- e. On July 6, 2007, PFNW submitted a revised PMR for approval to EPA to obtain a sample of the PCB Demonstration material. (See Attachment 3 for the revised PMR.)

If EPA is in agreement with this proposed course of action, the following steps remain to allow for the shipment of the containers to Clean Harbors:

- a. Sample and analyze the PCB demonstration material (pending EPA approval of said permit modification request)
- b. Obtain Clean Harbors' approval to ship the containers
- c. Schedule the shipment to Clean Harbors

In order for PFNW to achieve compliance with the Permit PFNW respectfully requests EPA's written permission for an extension for storage of the PCB Demonstration Material containers pending sampling, analysis and shipment to Clean Harbors for disposal. Upon determining that the PCB Demonstration Material is not radioactive PFNW will commit to shipping the PCB Demonstration Material offsite for disposal within 60 days.

In order to minimize the impact of this occurrence and minimize the potential recurrence of similar events, the following steps have been or will be taken:

- a. An Unusual Event (UE) report was prepared to address the inadvertent management of the drum containing the non-conforming items and the corrective actions identified in the UE have been completed to ensure future compliance with "process hold" and related procedures. (See Attachment 4 for the UE report.)
- b. The condensate drum is being managed as a TSCA-regulated container/waste and is currently stored in Waste Storage Bay #4. The macroencapsulated box is being managed as a TSCA-regulated container/waste and is currently stored in Waste Storage Bay #4. (Waste Storage Bay #4 is approved for the storage of TSCA waste.)
- c. PFNW is making arrangements to return the condensate and macroencapsulated box to the original generator. (See Attachment 4 for the email correspondence.)
- d. A storage cabinet located in SB-02 was designated as an interim storage area for the future storage of containers of potentially non-conforming wastes. If similar potentially non-conforming wastes are discovered in the future, the container will be removed to and placed in the designated storage area/cabinet, pending the completion of additional waste characterization activities.
- f. Waste Inspection procedure Mixed Waste Operations Procedure (MWOP) 717 has been revised to include the segregation of non-conforming wastes. (See Attachment 4 for MWOP 717.)
- g. All Mixed Waste Facility operators have received supplemental employee training consistent with the steps previously listed.

Records for the Mixed Waste Facility have undergone review to confirm that management of containers of regulated mixed-TSCA material in the Stabilization Building has not inadvertently occurred. A records review indicates three (3) more regulated mixed-TSCA material drums were managed in the Stabilization Building by the supercompactor unit (TP-07). These drums contained 63 parts per million PCBs. The following time line describes the relationship between the container MW06002837 (containing the vials of liquid) and the three debris drums from the Plutonium Finishing Plant (PFP).

Time Line-

On October 23, 2006, container number MW06002837 from receipt MWR06-085 containing vials of liquid was mistakenly compacted.

On November 06, 2006, three (3) debris drums from receipt MWR06-071 were compacted. No visible liquids were recovered after the compaction process.

On November 16, 2006, the error of compacting container number MW06002837 from receipt MWR06-085 container was realized.

On November 20, 2006, Unusual Event Report Number 06-07 was initiated for the management of non-conforming waste.

Nevertheless, in recognition of EPA's expressed concern about the adequacy of this longstanding and otherwise acceptable practice, PFNW's new management is prepared to take additional steps to characterize the BPU residue and baghouse dust generated from the processing of low level radioactive, non-hazardous waste in incinerators SB1 and SB2. To that end, PFNW has taken and proposes to take the following steps:

a. Offsite disposal of BPU residue and baghouse dust has been temporarily placed on hold pending the establishment and implementation of additional waste characterization steps. To date analytical results have been obtained for the BPU residue and baghouse dust. The first analytical results obtained for the BPU residue passed for all constituents of concern (D004-D0043). The first analytical results baghouse dust passed for all constituents of concern (D004-D0043) with the exception of cadmium. A second composite sample of the baghouse dust was collected from five other containers and analyzed by STL for characteristic metals. The analytical result for cadmium was below the maximum concentration for toxicity, nevertheless, the matrix spike sample for both cadmium and selenium were outside established Quality Control limits. On separate requests STL was requested to reanalyze the both selenium and cadmium constituents. To date the reanalysis has validated the selenium value. Nonetheless, the cadmium value still remains outside the established Quality Control limits due to a matrix interference that can not be resolved. (See Attachment 5 for the analytical reports.)

b. Currently inventoried generated BPU residue and baghouse dust and newly generated ash and baghouse dust will be sampled and analyzed for relevant constituents of concern (i.e., hazardous/dangerous waste characterization analysis) prior to shipment.

Newly generated bag house dust and BPU residue will be sampled as follows for the next year.

- Every container of newly generated baghouse dust will be sampled (grab). A sample for analysis by an offsite laboratory will be prepared by compositing ten (10) of the grab samples. The composite sample will be analyzed for RCRA metals. Twice a year the baghouse dust will be sampled and analyzed for the list of characteristic constituents (D001-D043).
- Every container of newly generated BPU residue will be sampled (grab). A sample for analysis by an offsite laboratory will be prepared by compositing ten (10) of the grab samples. The composite sample will be analyzed for RCRA metals. Twice a year the baghouse dust will be sampled and analyzed for the list of characteristic constituents (D001-D043).

After one year of the previously described sampling regime, the sampling plan for the newly generated baghouse dust and BPU residue will be reevaluated.

c. The results of the analysis will be used to determine the appropriate onsite and offsite management practices for the BPU residue and baghouse dust. Additionally, documentation generated during the course of the BPU residue and baghouse dust characterization will be maintained in the facility operating records and available for inspection by EPA and Washington agency personnel pursuant to standard recordkeeping and operating record requirements.

and corrected the accumulation date on the label. Affected facility personnel have received training emphasizing the purpose and implementation of the labeling requirements.

Item b.

The subject bricks were placed in an appropriate container and moved to a holding area just outside of the Radiological Control Area (RCA). Since the bricks are going to be reused either as lead shielding or recycled, it is PFNW's contention they are not a solid waste and respectfully submits they are therefore not subject to hazardous waste [and "dangerous waste"] management standards. As a result, at the time of the inspection, PECO's was not in violation of the requirements of WAC 173-303-200(1) [and 40 C.F.R. §262.34(a)].

Lead is generally considered a product at the facility. Typically, lead is used in the shipping or storage of radioactive waste to maintain radiation exposure As Low As Reasonably Achievable (ALARA). Typical examples of the use of lead are for shielding of work areas/equipment or shielding of radioactive waste itself. In the event that lead is determined to be a waste at the facility it is packaged and appropriately treated (currently macroencapsulation) and disposed of as radioactive lead solids. While it is not common practice, our radioactive materials license does allow for the recycling of materials. In the event lead items are determined to be excess and also not radioactively contaminated they could be managed in a manner that allowed them to be sent to a recycler.

PFNW has developed and implemented Low Level Operating Procedure 120 (LLOP-120) for the handling of universal waste and recyclable/reusable materials, including lead bricks. Training on the newly issued procedure has been scheduled and appropriate personnel have been identified for training. (See Attachment 6 for Low Level Operating Procedure 120)

Item c.

The satellite accumulation area container observed on March 6, 2007 has been correctly labeled. Affected facility personnel will receive supplemental employee training emphasizing the purpose and implementation of the labeling requirements. Additionally, in order to facilitate compliance with container labeling requirements, PECO's has reduced the number of satellite accumulation areas (SAAs) in the Mixed Waste Facility from 35 to 19.

6. Failure to Manage Used Oil Properly

The regulation at WAC 173-303-515(6) [which incorporates 40 C.F.R. §279.22(c)(1) by reference] requires that containers and above-ground tanks used to store used oil at generator facilities must be labeled or marked clearly with the words "Used Oil."

At the time of the inspection, the inspectors observed outside the facility maintenance shop located inside the low level part of the facility three drums labeled "waste oil" which were being sent offsite for recycling. The mislabeled drums constituted a violation of WAC 173-303-515(6) [and 40 C.F.R. §279.22(c)]. During the inspection, facility personnel corrected the drum labels to read "Used Oil".

2007-LTR-0939

Attachment 1

Notice of Violation and Off-Site CERCLA Determination letters dated June 14, 2007

drums of non-legacy waste in WSB 4, about 25% had been in storage for over one year after generation by PEcoS, in violation of permit condition 2.11 of Attachment LL.

2. Failure to Dispose of PCB Waste in Storage within One Year

Permit condition ILF.5.f requires that "within three hundred sixty-five (365) days after waste receipt or generation, waste will be treated and shipped off-site, if necessary, for final disposal."

At the time of the EPA inspection, PEcoS was storing eight drums of TSCA regulated PCB waste; the PCB waste had been on site for more than 365 days. Previous extensions to the 365 day limit on continued storage expired September 30, 2006. This constitutes a violation of Permit condition ILF.5.f.

3. Failure to Manage Mixed-TSCA Regulated PCB Waste Properly

Permit condition II.A.7 requires that "Mixed-TSCA regulated PCB waste shall not be managed in the Stabilization Building."

During the EPA inspection, management of a drum of PCB containing waste in the Stabilization Area was discussed. PEcoS submitted to Ecology on January 31, 2007, an occurrence report describing the incident. According to that report, the drum had been "inadvertently" processed on October 17, 2006. Ms. Granger explained to the inspectors that a drum dated 1977 had been buried at Hanford and retrieved by EPA under CERCLA authorities. It had come to the facility for processing in a shipment of 219 drums, with no indication that PCBs were present. During the initial screening, one drum was found to contain a small vial of liquid and marked to be held for further investigation; however, the drum was nevertheless compacted and placed in a burial box for return to Hanford. The liquid generated from the compaction contained 80 ppm of PCBs.

Management of the drum of mixed-TSCA regulated PCB waste in the Stabilization Building constitutes a violation of Permit condition II.A.7.

VIOLATIONS OF DANGEROUS WASTE REGULATIONS

The following violations were observed at the Facility in units not covered by the permit:

4. Failure to Determine if a Generated Solid Waste is a Dangerous Waste

The regulation at WAC 173-303-070(1) [and 40 C.F.R. § 262.11] requires that, "any person who generates a solid waste (including recyclable materials) that is not exempted or excluded ... must determine whether or not their solid waste is designated [and] must follow the procedures set forth in subsection (3) of this section. Any person who determines by these procedures that their waste is designated DW or EHW is subject to all applicable requirements of this chapter."

At the time of this inspection, the inspectors observed incinerators SB1 and SB2, which process low level radioactive, non-hazardous waste, debris and equipment from Hanford. This process

6. Failure to Manage Used Oil Properly

The regulation at WAC 173-303-515(6) [which incorporates 40 C.F.R. § 279.22(c)(1) by reference] requires that containers and above-ground tanks used to store used oil at generator facilities must be labeled or marked clearly with the words "Used Oil."

At the time of the inspection, the inspectors observed outside the facility maintenance shop located inside the low level part of the facility three drums labeled "waste oil" which were being sent offsite for recycling. The mislabeled drums constituted a violation of WAC 173-303-515(6) [and 40 C.F.R. § 279.22(c)]. During the inspection, facility personnel corrected the drum labels to read "Used Oil."

7. Failure to File an Exception Report

WAC 173-303-220(2)(b) [and 40 C.F.R. § 262.42(a)(2)] requires that a generator must submit an exception report to the department if he has not received a copy of a manifest with the handwritten signature of the owner/operator of the designated facility within forty-five days of the date the waste was accepted by the initial transporter.

At the time of the inspection, PEcoS did not have a copy of the manifest with the handwritten signature of the owner/operator of the designated facility for an outgoing manifest dated March 29, 2006. This constituted a violation of WAC 173-303-220(2)(b) [and 40 C.F.R. § 262.42(a)(2)].

Required Action

The above violations may subject PEcoS to enforcement action under Section 3008 of RCRA, 42 U.S.C. § 6928, and Section 16 of TSCA, 15 U.S.C. § 2615, including an action to assess civil penalties. Within fifteen (15) days of receipt of this NOV, EPA requests that PEcoS submit a written response that identifies all action the Facility has taken or will take to correct the violations and address the concern and the time frame for completing such action.

Please send all material submitted in response to this NOV to:

Sylvia Burges (OCE-127)
Air-RCRA Compliance Unit
U.S. Environmental Protection Agency
1200 Sixth Avenue
Seattle, Washington 98101.

EPA Reservation of Rights

Notwithstanding this NOV or PEcoS's response, EPA reserves the right to take any action pursuant to RCRA, TSCA, the Comprehensive Environmental Response, Compensation, and Liability Act, as amended (CERCLA), or any other applicable legal authority including, without limitation, the right to seek injunctive relief, implementation of response actions or corrective measures, cost recovery, monetary penalties, and punitive damages. PEcoS's response to this NOV does not constitute compliance with RCRA.

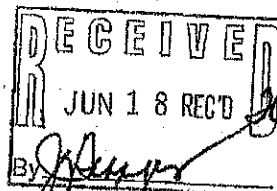
IC-2007-022



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 10
1200 Sixth Avenue

Reply to the
Attention of: OCE-127

JUN 14 2007



CERTIFIED MAIL NUMBER 7007 0710 0004 4459 3900
RETURN RECEIPT REQUESTED

David Dalton, President
Pacific Ecosolutions, Inc.
2025 Battelle Boulevard
Richland, Washington 99354

Re: Off-Site Rule Response -- Facility Unacceptable for Receipt of CERCLA Remedial Wastes
Pacific Ecosolutions, Inc.,
EPA ID Number WAR 00001 0355

Dear Mr. Dalton:

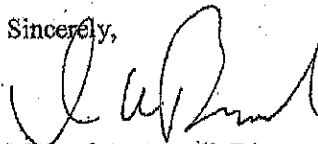
The purpose of this letter is to notify you that the U.S. Environmental Protection Agency, Region 10 (EPA), has determined that conditions exist at the facility at Pacific Ecosolutions, Inc. (PECOS), 2025 Battelle Boulevard, Richland, Washington 99354, which render this facility unacceptable for the receipt of off-site wastes generated as a result of removal or remedial activities under the Comprehensive Environmental Response, Compensation and Liability Act, as amended (CERCLA or Superfund), 42 U.S.C. § 9601 seq.

This determination of unacceptability becomes effective sixty (60) calendar days from receipt of this notice. Once this determination becomes effective, the facility will remain unacceptable for receipt of CERCLA wastes until notification by EPA that the facility is again acceptable to receive such wastes. The implementation of this notice does not prohibit EPA or delegated state programs from taking appropriate enforcement actions under CERCLA or the Resource Conservation and Recovery Act, as amended (RCRA), 42 U.S.C. § 6901 et seq.

On September 22, 1993, the final Off-site Rule was published by EPA in the Federal Register. The purpose of the Off-site Rule is to avoid having Superfund wastes contribute to present or future environmental problems by ensuring that these wastes are directed to facilities which are environmentally sound. Section 121(d)(3) of CERCLA, 42 U.S.C. § 9621(d)(3), describes procedures that must be observed when a response action under CERCLA involves off-site management of CERCLA wastes. The Off-site Rule implements the requirements of Section 121(d)(3) of CERCLA. A copy of the Off-site Rule is enclosed for your review.

This letter is being sent to you both by certified and first class mail, in order to ensure that you receive it promptly. If you wish to request an informal conference, or to submit written comments, or if you have any questions regarding this letter, you may write to Robert Hartman, Assistant Regional Counsel, M/S ORC-158, U.S. Environmental Protection Agency, 1200 Sixth Avenue, Seattle, Washington 98101; by email to Hartman.Bob@epa.gov or by telephone at (206) 553-0029.

Sincerely,

A handwritten signature in dark ink, appearing to read "M. A. Bussell", written over the word "Sincerely,".

Michael A. Bussell, Director
Office of Compliance and Enforcement

cc: Ron Skinnerland, Ecology

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I. Authority

Sections 104(c)(3), 105, and 121(d)(3) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 ("CERCLA"), as amended by the Superfund Amendments and Reauthorization Act of 1986 ("SARA") (42 U.S.C. 9604(c)(3), 9605, 9621(d)(3)); section 311(c)(2) of the Clean Water Act (33 U.S.C. 1321(c)(2)); Executive Order 12580 (52 FR 2923, January 29, 1987); and Executive Order 12777 (56 FR 54757, October 22, 1991).

II. Introduction

Today's final rule amends the National Oil and Hazardous Substances Pollution Contingency Plan ("NCP"), 40 CFR part 300, by adding a new § 300.440. The May 1985 off-site policy (50 FR 45933-45937 (November 5, 1985)), as revised by the Procedures for Implementing Off-site Response Actions of November 13, 1987 (OSWER Directive No. 9834.11), (hereinafter known as the "Off-site Policy"), is superseded by this rule.

The purpose of this off-site regulation is to avoid having CERCLA wastes from CERCLA-authorized or -funded response actions contribute to present or future environmental problems by directing these wastes to management units determined to be environmentally sound. Congress and EPA have always believed that a CERCLA cleanup should be more than a relocation of environmental problems, and have attempted to ensure the proper treatment and disposal of CERCLA wastes removed from a CERCLA site. EPA believes that the process set out in this rule for ensuring that CERCLA wastes are transferred only to properly-permitted facilities that have no relevant violations or uncontrolled releases, assures that the receipt of CERCLA waste will not pose adverse effects on the environment.

The off-site regulation should help prevent the aggravation of conditions at problem sites and reduce the government's and the Superfund's potential liability by establishing criteria governing the off-site transfer of CERCLA wastes from CERCLA-authorized or -funded response actions. The rule should also help to ensure that off-site transfer decisions are made in an environmentally sensible manner, consistent with sound public policy and business practices.

The requirements of this rule are integral components of the "selection of remedial action" provision in CERCLA section 121, and their proper application will help to ensure that response actions selected are protective of human health and the environment (consistent with CERCLA section 121(b)(1) and, more generally, with section 104(a)(1)).

Today's final rule implements the requirements of section 121(d)(3) of CERCLA, which provides that in the case of any CERCLA response action involving the off-site transfer of any hazardous substance, pollutant, or contaminant (CERCLA waste), that CERCLA waste may only be placed in a facility that is in compliance with the Resource Conservation and Recovery Act (RCRA) (or other applicable Federal law) and applicable State requirements. CERCLA requires that for "land disposal facilities," there may be no transfer of CERCLA wastes to a unit with releases, and any releases at other units must be controlled.

Although CERCLA section 121(d)(3) applies compliance criteria to all facilities, it applies "release" criteria only to RCRA subtitle C land disposal facilities. EPA believes, as a matter of policy, that some release criteria should also be applied to all facilities that

receive CERCLA wastes from CERCLA authorized or funded response actions, including RCRA treatment, storage, and permit-by-rule facilities, and any non-RCRA subtitle C facilities (such as subtitle D facilities or facilities permitted to receive hazardous substance wastes under the Toxic Substances Control Act (TSCA)).¹ The Agency believes that such a step will further the protection of human health and the environment, and the development of a sound and consistent public policy; it would also serve to further the goals reflected in CERCLA section 121(d)(3).

Similarly, although SARA section 121(b) provides that CERCLA section 121 (and thus section 121(d)(3)) applies to actions arising from post-SARA decision documents only,² EPA believes that it is logical and appropriate to apply this rule to CERCLA wastes resulting from two other categories of similar cleanup actions: those authorized under CERCLA before the enactment of SARA, and those performed under the National Contingency Plan pursuant to section 311 of the Clean Water Act (for non-petroleum products). Accordingly, this rule applies to a number of situations in addition to those expressly set out in section 121(d)(3) of CERCLA.

Today's final rule establishes the criteria and procedures for determining whether facilities are acceptable for the off-site receipt of CERCLA waste from CERCLA-authorized or -funded response actions and outlines the CERCLA wastes and actions affected by the criteria. It establishes compliance criteria and release criteria, and establishes a process for determining whether facilities are acceptable based on those criteria. The rule leaves the final decision of off-site acceptability with EPA, after providing the opportunity for, and encouraging, substantial consultation with the State in which the off-site facility is located.

¹ A TSCA permitted facility's acceptability to receive CERCLA wastes is also based on compliance and release findings. As with a RCRA facility, the compliance finding at a TSCA facility hinges on the absence of relevant violations at or affecting the receiving unit. The release finding for a TSCA facility is based on the presence or absence of environmentally significant releases anywhere at the facility (i.e., not just at the receiving unit). Such releases must be addressed by corrective action under a State or Federal program.

² Section 121(b)(1) of SARA provides that the requirements of CERCLA section 121 shall not apply to any remedial action for which the Record of Decision ("ROD") was signed, or the consent decree lodged, before the date of enactment of SARA. SARA Section 121(b)(2) provides that if an ROD was signed, or consent decree lodged, within the 30-day period after enactment of SARA, the remedial action should comply with CERCLA section 121 to the maximum extent practicable.

of this rule for reasons discussed above and in the preamble to the proposed rule. However, today's rule is predicated on the principle that CERCLA actions should not contribute to existing environmental problems, and that materials generated from CERCLA actions should be transferred only to environmentally sound facilities. Thus, EPA does not believe it is appropriate for labs to routinely send CERCLA waste samples back to CERCLA sites.

Accordingly, EPA has identified two options for the proper disposal of lab-tested samples of CERCLA wastes. The Agency believes that these options, included in the final rule, respond to commenters' concerns that unnecessary obstacles not be placed in the way of lab testing, while ensuring that CERCLA wastes are handled in an environmentally sound manner.

First, labs may send the tested samples and their residues to an appropriate facility (i.e., they may treat it as material not subject to this rule and transfer it to any facility that may legally accept such wastes); the Agency expects that the vast majority of the materials sent to labs from CERCLA sites will be handled under this first option. Second, the lab may return the CERCLA waste sample to the site from which the sample came if the Remedial Project Manager (RPM) or On-Scene Coordinator (OSC) agrees to assume responsibility for the proper management of the sample and gives permission for the sample to be returned to the site.

One commenter requested that a similar exemption be applied to CERCLA wastes sent off-site for treatability studies. The commenter reasoned that information on treatability is valuable, resulting in a high confidence level that those CERCLA wastes will be properly handled and managed, and that treatability studies promote treatment rather than disposal of CERCLA wastes; treatment is a preferred waste management option under CERCLA. Finally, the RCRA program has exempted treatability study wastes from most hazardous waste management requirements.

EPA agrees with the commenter that an exemption from this rule for treatability CERCLA wastes is appropriate, and that it is consistent with the approach taken in the final rule for Identification and Listing Hazardous Waste Treatability Studies Sample Exemption (53 FR 27290, July 19, 1988). Thus, those hazardous wastes at a CERCLA site that are being sent off-site for treatability studies and that meet the requirements for an exemption from RCRA under 40 CFR 261.4(e), are also

exempt from today's rule. CERCLA wastes, residues and other materials that are not RCRA hazardous wastes resulting from treatability studies are subject to the same disposal options as materials from lab characterization samples. Again, EPA believes that this approach will help to facilitate prompt site cleanups while ensuring that CERCLA wastes are managed in an environmentally sound manner. Non-RCRA hazardous wastes that are being sent off-site for treatability studies and that are below the quantity thresholds established in the Treatability Studies Sample Exemption Rule are similarly exempt from the requirements of the Off-site Rule.

ii. LDR residues. One commenter objected to applying the requirements of the rule to transfers from a CERCLA site of CERCLA waste residues meeting treatment standards established by the land disposal restrictions (LDRs), believing that these residues no longer posed a hazard. EPA maintains that RCRA hazardous wastes or waste residues meeting LDR treatment standards are still considered hazardous under RCRA, unless they no longer exhibit a characteristic of hazardous waste, or if appropriate, are delisted. Moreover, even if a CERCLA waste meeting LDR treatment standards is found not to be a RCRA hazardous waste, it may still be CERCLA waste. Under today's rule, CERCLA waste that is not a RCRA hazardous waste may be sent to other than a RCRA subtitle C facility for disposal (if that facility meets the requirements of the rule), e.g., a RCRA subtitle D landfill. EPA believes that the rule as it stands should not prove burdensome and that it should be relatively easy to find capacity for such CERCLA wastes. Therefore, the final rule does not exempt CERCLA waste residues meeting LDR treatment standards when they are transferred from the CERCLA site.

iii. Clarification on Subsequent Transfers of CERCLA Wastes. The prior comment raises the related issue of how the Off-site Rule applies to subsequent transfers of CERCLA waste. When a CERCLA waste is to be transferred off-site as part of a CERCLA-funded or authorized cleanup, the contract implementing the decision document should identify the final disposition point for the CERCLA waste (i.e., the final treatment or disposal facility), and any intermediate facilities that will store or pre-treat the wastes (e.g., waste brokers, blenders). All such facilities would be required to be acceptable under the final rule.

Once the CERCLA waste is finally disposed of off-site, or treated off-site to

EDAT levels or in the absence of EDAT, treated to substantially reduce its mobility, toxicity, or persistence, it is no longer considered a CERCLA waste and subsequent transfers of the waste would not be regulated under this rule. However, if residues derived from the treatment of the CERCLA waste are RCRA hazardous wastes, they must be managed as such under RCRA.

2. Actions Affected

i. Enforcement Activities. EPA would like to clarify and respond to several commenters' questions concerning which enforcement activities are affected by today's rule. The Off-site Rule applies only to those actions being taken under a CERCLA authority or using CERCLA funds. These include actions taken under section 104, CERCLA consent agreements, decrees (including special covenants under section 122(f)(2)(A)), Records of Decisions (RODs), section 106 orders, and actions taken under pre-authorization CERCLA decision documents. State response actions conducted under a CERCLA cooperative agreement, are also subject to this off-site requirements.

Actions which would not trigger the off-site requirements include notification of a spill of a reportable quantity under CERCLA section 103, cleaning up a site using only State authority and State funds (whether or not the site is listed on the Superfund National Priorities List (NPL)), and conducting a voluntary cleanup involving government oversight (e.g., by the U.S. Coast Guard), unless under CERCLA or a CERCLA order or decree.

In one commenter's example, if a PRP has taken a voluntary response action (not under a CERCLA order and without CERCLA funds), that action is not subject to the Off-site Rule; thus, in a cost recovery action under CERCLA section 107(a)(4)(B), the PRP may demonstrate action "consistent with the NCP" without having to show compliance with the Off-site Rule requirements.

ii. Actions under CERCLA section 120. The proposed rule states that the requirements of this rule do apply to all Federal facility actions under CERCLA, including those taken by EPA and/or another Federal agency under CERCLA sections 104, 106, and 120 (53 FR 48220). One commenter objected to applying this rule to Federal facilities, arguing that this was not equitable because the rule covers private party actions at NPL sites only. The commenter asked that the rule only be applied to EPA-funded or Federal-

different off-site requirements were applied to CERCLA wastes, depending upon whether the CERCLA decision document was signed pre- or post-SARA (53 FR 48220). One commenter argued for eliminating the confusing distinctions between pre- and post-SARA CERCLA wastes. Although the statute applies only to post-SARA decision documents, the commenter saw no reason why these requirements could not be extended to CERCLA wastes from pre-SARA decision documents, particularly given the ambiguity of the May 1985 off-site policy. Several other commenters supported simplifying the Rule generally.

EPA agrees that eliminating the different criteria for CERCLA wastes from pre- and post-SARA decision documents would simplify the understanding and implementation of the rule. The Agency's experience with the revised Off-site Policy (since 1987) has been that the dual system is confusing, and potentially subject to inconsistent interpretation. The original reason for having different requirements for CERCLA wastes from pre- vs. post-SARA decision documents was to avoid disrupting contracts and actions already in place at the time SARA (and section 121(d)(3)) were enacted. However, in response to the commenter's suggestion, EPA has surveyed the existing pre-SARA ROD contracts and the acceptability status of facilities currently receiving CERCLA wastes from pre-SARA actions. The information gathered indicates that few if any CERCLA waste transfers resulting from pre-SARA decision documents would be disrupted by application of the newer criteria.⁴ Indeed, most facilities receiving CERCLA waste already meet both the pre- and post-SARA criteria, in order to be acceptable to receive all CERCLA waste. The elimination of separate standards for CERCLA wastes from pre-SARA decision documents would be neither burdensome nor disruptive. Therefore, in the final rule, CERCLA wastes from pre-SARA actions and CERCLA wastes from post-SARA actions are treated the same.

B. Determining Acceptability

In its November 29, 1985, Federal Register notice, EPA proposed, and requested comment on, allowing States that were authorized to carry out the corrective action portions of RCRA, to make off-site acceptability determinations for RCRA subtitle C

facilities within their respective jurisdictions. The Agency noted that the "States often have the most direct responsibility over the potential receiving facilities" * * * and thus may be in the best position to make the findings required under the Off-site Rule." (53 FR 48221) However, at the same time, EPA noted that retaining the off-site decision in the EPA Regional Offices would offer the advantages of "more easily assuring consistent application of the rule, and avoiding conflicts between the Region and the State regarding the acceptability of a facility." (53 FR 48222) Thus, the Agency specifically requested comment on whether qualifying States should make off-site acceptability determinations, or whether EPA Regions should exercise that decision-making authority.

EPA received eight specific comments on the State decision-making issue. Six of the comments objected to allowing States to make the off-site determinations, based on the need for national consistency and concerns that some States might use the off-site authority to prohibit the receipt of out-of-state CERCLA wastes. Two of these six commenters added that States should be allowed to make acceptability determinations only if they agree to follow the notice and re-qualification procedures that apply to EPA. A seventh commenter (a State) criticized the proposed approach on the grounds that it would effectively deny any input on the acceptability determination from most States, since most States are not authorized to carry out corrective action under RCRA; the commenter recommended that States be given at least 30 days to comment on a proposed decision before the facility is notified of the final acceptability status. A second commenting State suggested that the agency inspecting the facility for RCRA compliance should make the off-site acceptability determination; however, it added that "it appears obvious that it should be a joint determination."

The Agency also received four comments on a related point—the difficulty of receiving ready access to a list of acceptable facilities.⁵ In effect, these comments indicate that it has been difficult for the public to quickly and accurately determine what facilities are

acceptable under even the present Off-site Policy, under which one need check with only ten regional off-site contacts. EPA has reviewed this comment in light of the issue of whether States should make final off-site determinations, and has concluded that the problem identified by the commenters would grow dramatically if the public were required to verify off-site acceptability with up to fifty State contacts. Further, allowing the States to make off-site acceptability determinations as proposed would not eliminate the need for the EPA Regional contacts; a State could not make determinations for other Federal programs, such as the Toxic Substances Control Act (TSCA). Thus, the public would be required to check with State contacts and EPA Regional contacts in order to determine which facilities are acceptable to receive certain types of CERCLA wastes. The prospect of requiring interested parties to check acceptability status with all fifty states (for portions of RCRA) and all ten EPA Regions (for other portions of RCRA, and TSCA, etc.) would place an unreasonable burden on the people who need to locate acceptable capacity.

Based on a careful review of all the comments received on the proposed rule, as well as a review of the Agency's experience to date in implementing the Off-site Policy, EPA still believes that it is essential for the off-site acceptability process to take into account the important role of the States in making compliance findings (and, in some States, release findings) under RCRA; however, the comments received, and EPA's experience also demonstrate a strong need for national consistency, and for facilitating timely public access to acceptable capacity. Thus, while the basic approach and structure of the rule remains unaltered, the Agency is making several important changes in the language of the rule, in order to help make States active participants in off-site determinations, while at the same time preserving final off-site determination authority within EPA.

1. State Role

The off-site acceptability determination for a facility is based, in large part, on a compliance finding and a release finding. Authorized States make the initial compliance findings for those parts of the program for which they are authorized. If a State finds a violation at a unit of a facility, EPA will evaluate the finding for "relevance" under the rule (e.g., whether the violation occurred at the receiving unit and thus is "relevant" under the rule; "relevant" is discussed in more detail section IV.C.4 of this preamble). If the

⁴ Several commenters suggested that the present system of having ten EPA regional contacts should be replaced by a more easily implemented system under which one consolidated list would be made available to the public. However, the Agency recognizes that it would be impossible to publish a list of acceptable facilities nationwide for even regionally, as the off-site status of facilities is constantly changing, and any such list would be outdated before it was distributed.

⁵ A Memorandum summarizing the information collected is included in the docket of this rule.

consistency, it is appropriate for EPA to retain the final decision-making authority in these areas. However, as with all Off-site Rule issues, the States will be invited to discuss these issues with EPA, and will be afforded an opportunity to obtain review of such decisions with the Regional Administrator.

Third, there may be isolated cases where EPA and the State disagree on the initial finding of violation or release. (This could generally be expected to arise during the review period, as EPA plans to initiate the off-site review process where the State makes a finding that EPA determines is relevant under the rule.) In such cases, EPA will consult with the State, and the State may request additional meetings with the Agency. However, in order to fulfill its obligations under the statute, EPA must have the ability to make an independent assessment of the facility's status at the end of the 60-day period to determine if the facility is currently operating in compliance and/or has any uncontrolled relevant releases, for the limited purpose of the Off-site Rule. These judgments do not prevent the State from pursuing an enforcement action for past violations, or even arguing that violations are continuing.

It is important to note that the question of whether or not a unit is operating in compliance, or has returned to physical compliance, is an issue separate and distinct from the question of whether an enforcement action for past violations is appropriate. The statute clearly focuses the acceptability determination on present compliance: CERCLA wastes "shall only be transferred to a facility operating in physical compliance with" RCRA or other applicable law (CERCLA section 121(d)(3)). Thus, where a facility has returned to compliance and, where appropriate, changed its operations to prevent recurrence, the facility "is operating" in compliance and should not be unacceptable under the Off-site Rule simply because a complaint for past violations is still pending.⁶

4. No Cooperative Agreement Requirement

Under the proposed rule, EPA had suggested allowing States that were authorized to carry out RCRA corrective

action to make the off-site determinations if they were found to be capable, under a CERCLA Core Cooperative agreement, of carrying out certain functions. Because the Agency has decided to retain the authority to make the final determination, and use State findings as a basis for the initial determinations, there is no longer a need for States to enter into such agreements for the purpose of the Off-site Rule.

5. Facility Acceptability Status

Section 300.440(a)(4) of the proposed rule (53 FR 48232) stated that "[a] facility is acceptable until the responsible Agency notifies the facility otherwise"; the scope of this section needs to be clarified. For facilities that have already been notified that they are acceptable under the rule (or the preceding policy), the facility would remain acceptable until EPA determines otherwise according to the provisions of final rule § 300.440(d). This allows both receiving facilities and CERCLA site managers adequate time to respond to new circumstances. By contrast, the language quoted above was not meant to apply to facilities for which EPA has never made a determination of acceptability under this rule (or the preceding policy), and at which CERCLA wastes are not likely to be in transit; for such facilities, EPA believes that affirmative determinations of "compliance" and "control of releases" are necessary before a facility may be deemed acceptable for the receipt of CERCLA wastes, consistent with the language of CERCLA § 121(d)(3).⁷ Final rule § 300.440(a)(4) has been revised to clarify this point.

C. Determining Acceptability: Compliance Criteria

1. Inspection Requirements

Section 300.440(c)(1) of the proposed rule provided that a facility "must have received an appropriate facility compliance inspection within six months prior to receiving CERCLA waste" (53 FR 48232). Three commenters expressed concern that a receiving facility, which would otherwise be in compliance, could be penalized because of the failure of the

regulatory agency to conduct inspections at the required frequency. One of these commenters objected to being penalized for EPA or State tardiness, and believed that the rule suggested that EPA could not conduct an inspection during the 60-day period following a Notice of Unacceptability.

EPA continues to believe that periodic inspections to update information on facilities receiving CERCLA wastes are important to the effective implementation of this rule, and the Agency will address the recommended frequency of inspections in guidance. The Agency notes that inspections are already carried out under a number of regulatory programs, such as RCRA. EPA agrees that the absence of an inspection six months prior to the receipt of CERCLA waste (or the absence of a CME or O&M inspection for RCRA land disposal facilities within one year prior to the receipt of CERCLA wastes) should not in itself be grounds for unacceptability, unless the facility refused to allow an inspection to be performed. The requirement for updating inspections within a defined time frame has thus been eliminated from final rule § 300.440(c). (Of course, as discussed above, final rule § 300.440(a)(4) maintains the requirement for an affirmative determination of acceptability when a facility first seeks to receive CERCLA wastes under this rule, and this may involve a compliance and release inspection.) In response to the last comment, EPA would like to clarify that the language in the proposal was not meant to suggest that EPA could not, if appropriate, conduct an inspection during the 60-day review period.

2. Receiving Unit

Several commenters supported the definition of "receiving unit" as that unit which directly received the waste in question (53 FR 48222). This definition remains the same in the final rule.

3. Facility

Three commenters supported the proposed definition of "facility" (53 FR 48222); however, one commenter questioned the concept of facility-wide violations that could render the entire facility unacceptable, rather than just the violating unit. The commenter asked for a clear and precise example of both unit-specific and facility-wide violations.

Examples of facility-wide violations include the failure to have or comply with the facility's waste pre-acceptance procedures, waste analysis plan, contingency plan, financial

⁶Of course, in some cases, the violation cannot be undone and may be argued to be a "continuing violation." EPA has already addressed this case by providing a mechanism for returning to compliance by resolving the violation, including penalties and any enforcement actions brought by EPA. See proposed rule at 53 FR 48229, November 29, 1988; see also discussion below, at section IV.C.4, and IV.E.4.

⁷Although EPA will meet with the owner/operator of such facilities during the 60-day period after a relevant release or violation is found, the Agency does not believe that it would be appropriate to accord a 60-day period of acceptability to such facilities, where the available information indicates non-compliance or uncontrolled releases, and no disruption to ongoing CERCLA cleanups would be occasioned by the finding. Final rule section 300.440(d)(3) has been revised to clarify this point.

outstanding or penalties had not been paid.

"Physical compliance" does not include being in compliance with a schedule to return to physical compliance.

5. Minimum Technology Requirements (MTRs)

EPA received conflicting comments on the proposal to require a RCRA Subtitle C land disposal unit to comply with the more rigorous minimum technical requirements of RCRA § 3004(c) in order to be acceptable to receive RCRA hazardous wastes from a CERCLA cleanup (53 FR 48224). EPA believes that this requirement is appropriate in order to assure that CERCLA waste that are RCRA hazardous wastes remain safely disposed of in the future. HSWA established minimum technology standards for new land disposal facilities (i.e., facilities commencing construction after Nov. 8, 1984). These standards are more stringent than the requirements for existing (i.e., pre-1984) land disposal facilities because Congress considered existing requirements to be inadequate to prevent hazardous waste from entering the environment. Of course, waivers from MTRs are allowed if the owner/operator can show that alternative design and operating practices, together with location characteristics, will prevent the migration of any hazardous waste constituent into the ground water or surface water at least as effectively as the required liners and leachate collection system. (40 CFR 264.301) An MTR unit is less likely to have future problems than a non-MTR unit, and therefore the requirement that receiving RCRA Subtitle C land disposal units must meet MTRs is consistent with Congressional intent not to send CERCLA wastes to land disposal units that may leak.

6. Facilities Operating Under a RCRA Exemption and Non-RCRA Facilities

One commenter suggested that a facility operating under a RCRA exemption should still have to meet certain conditions, such as justifying the exemption, obtaining all necessary permits, and passing an inspection. EPA agrees that facilities subject to a RCRA exemption are still covered by the Off-site Rule. CERCLA wastes may be transferred to such a facility only if the facility is operating in compliance with applicable law (which for some facilities operating under a RCRA exemption may still include some provisions of RCRA), has obtained all necessary permits (if any), and has controlled any

environmentally significant releases. EPA will rely upon information developed during inspections in making such determinations. These requirements were specifically set out in the proposed rule for other-than-RCRA facilities, and remain in the final rule as requirements (53 FR 48225-26; proposed §§ 300.440(b)(1), 300.440(b)(2)(D)).

D. Determining Acceptability-Releases

1. Identifying Releases

For all RCRA Subtitle C facilities, a facility-wide investigation (e.g., a RCRA Facility Assessment (RFA) or a Preliminary Assessment/Site Investigation (PA/SI)) by the responsible Agency is necessary to determine if a release has occurred, or if there is a substantial threat of release, prior to its initial use for the receipt of off-site CERCLA wastes. (Once a facility has been found to be acceptable, it remains acceptable until EPA notifies the facility otherwise, as provided in § 300.440(a)(4) of the rule.) If a release has been identified outside the scope of such an investigation, completion of the investigation is not necessary prior to issuing a notice of unacceptability or initiating a corrective action program (in such situations, the corrective action program should be designed to include a facility-wide investigation). Although the performance of a facility-wide investigation is no longer discussed in the rule (see proposed rule § 300.440(c)(2)), it remains an important part of the off-site evaluation program.

One commenter objected to including "substantial threat of a release" in the definition of release (53 FR 48224), claiming that this exceeds EPA's statutory authority.

Although CERCLA section 121(d)(3) does not specifically state whether or not a "substantial threat of release" is intended to be covered by the terms of the provision, EPA believes that the inclusion of substantial threats is consistent with the intent of the section that CERCLA wastes be transferred only to environmentally-sound facilities, and that they not add to environmental problems. Where there is a substantial threat of a release, e.g., a crack in a containment wall, the transfer of CERCLA wastes to the site would not be environmentally sound.

Even if the statute is not read to compel this result, EPA believes it is a sound one as a matter of policy under CERCLA. It is within the Agency's authority to respond to both releases and "substantial threats of release" under CERCLA section 104. It would be inconsistent with the purposes of

CERCLA sections 104 and 121(d)(3) and the goal of protecting health and the environment, for EPA to transfer CERCLA wastes to facilities where a substantial threat of release has been identified, and thus where the threshold for a CERCLA response action has been met. The general position that both "releases" and "substantial threats of releases" are serious causes of concern is reflected in the definition of "release" in the NCP revisions (40 CFR 300.5), which states that for the purposes of the NCP, release also means threat of release.

Three commenters questioned the criteria EPA will use to determine whether a release exists. One commenter asked EPA to provide more specific criteria for when the Agency may find a site to be unacceptable based on a relevant release, while two other commenters asked that determinations of unacceptability be grounded on very firm evidence, using objective criteria.

In evaluating releases and threatened releases, the Agency believes that it should rely on all available information, including information on the design and operating characteristics of a unit. The determination that there is a release (including a substantial threat of a release) may be made based on sampling results or may be deduced from other relevant information. For instance, as discussed in the proposed rule at 53 FR 48225, a broken disk may be evidence of a release (or of a substantial threat of release). In order to protect public health and the environment, and prevent CERCLA cleanups from contributing to future problems, the Agency needs to consider relevant information in addition to sampling data.

However, EPA does not have "unfettered discretion" in this regard, contrary to the comments of one party. The Agency will first make findings based on available information; the owner/operator will then have 60 days to offer evidence to the contrary if the facility disagrees with the Agency's findings. Finally, if the owner/operator disagrees with EPA's final decision, it may request a review by the Regional Administrator.

The final rule, therefore, will continue to allow the Agency to make release determinations based on information other than sampling data.

2. De Minimis Releases

In the proposal, the Agency interpreted the concept of release in section 121(d)(3) not to include *de minimis* releases (53 FR 48224). Several commenters supported the *de minimis* exemption, but disputed the narrow

In most cases, there will be a 60-day review period before the initial notice of unacceptability takes effect. The facility may use this time to take steps to return to acceptability, and thereby avoid disruption of the remedial action. This 60-day time period was also provided to afford the lead agency the opportunity to arrange for alternative disposal capacity (if the remedy will not be completed within the 60 days, or the facility is not expected to return to compliance in 60 days) (53 FR 48227). Second, the issue of who should bear added costs stemming from a facility's loss of acceptability must be a matter of contract negotiation between the parties. Finally, the Regional Administrator does have the discretion to extend the 60-day period if all factors, such as a lack of available alternative disposal capacity and a low threat to human health and the environment, so warrant.

2. Potential Unacceptability

One commenter asked for clarification in both the preamble and the rule on the relationship between the initial notice of potential unacceptability and the ability of a facility to continue to receive CERCLA wastes for 60 days after the notice of unacceptability (§ 300.440(d)(3)). In addition, the commenter believed that a determination of unacceptability should be published in the Federal Register.

The receipt of an initial notice of potential unacceptability does not usually render a facility unacceptable unless or until the final determination has been made and takes effect (usually 60 days after the initial notice, or after an alternative time period as provided under § 300.440 (d)(8) or (d)(9)) (53 FR 48227). As discussed earlier, a facility for which EPA has never made a determination of unacceptability will not be afforded a 60 day period of acceptability after the initial notice. Note that in exceptional cases, unacceptability notices can be made immediately effective. See 53 FR 48227-48228. EPA will not publish unacceptability notices in the Federal Register, because of the ability of a facility to take steps to return to compliance at any time, acceptability status is dynamic, and many such notices will be out of date before they get published. In addition, such a publication requirement would obligate EPA to publish in the Federal Register notices of when facilities returned to compliance; the effort involved would be significant (with little assurance of being timely), and could detract from more important Agency business. Rather, EPA maintains an up-to-date record of the acceptability status of

commercial facilities in each Region. This information is available to parties directly involved in locating sites for disposal, and to the interested public, from the "Regional Off-Site Contact" in each Regional Office. A list of these coordinators and their telephone numbers is included as Appendix I to this preamble, and updated lists will be available from the Superfund Hotline and Superfund docket.

F. Review Procedures

1. Agency Response Time

Two commenters asked EPA to identify a specific time frame for Agency review of a facility's return to acceptability status, and a specified response time for review of unacceptability determinations by the Regional Administrator (the commenter suggested that the appeal to the RA should be completed within the 60-day review period).

EPA does not believe it is feasible or appropriate to establish a specific time frame within which it must respond to a facility's request to return it to acceptability (whether that request comes within the 60 day review period or after a final determination of unacceptability has been issued). Although the Agency is committed to making every effort to respond to such requests as quickly as the case allows, the Agency cannot allow its priorities to be driven by artificial deadlines. Further, if the Agency were not able to verify a facility's alleged return to compliance by a required date, and in fact the company had not returned to compliance, CERCLA wastes would be transferred to unacceptable facilities, in violation of CERCLA section 121(d)(3). Companies that are unacceptable must bear some responsibility for their status; EPA will attempt to evaluate a return to acceptability as promptly as practicable.

As to the comment that the appeal to the Regional Administrator should always conclude within the 60-day review period, EPA notes that the statute establishes a critical mandate: the Agency shall not send CERCLA wastes to unacceptable facilities. The Agency has already provided a reasonable period for review and comment after an initial finding of violation, during which time the facility will have an opportunity to meet with Regional officials. As an added protection, EPA has provided a right to appeal the staff-level decision to the Regional Administrator, who will issue a decision as soon as possible. However, EPA cannot allow this process to routinely continue indefinitely, and it cannot violate Congress' clear direction

not to send CERCLA wastes to facilities with relevant violations or releases. For the reasons set out at 53 FR 48227, the Agency believes that a 60-day review period is a reasonable compromise among competing interests. Of course, the Regional Administrator has the discretion to extend the 60-day period, if appropriate, depending on the factors in the case. In deciding whether to extend the 60-day period, the Regional Administrator should, for example, consider the need to proceed with the cleanup expeditiously and the nature of the violations or releases found at the facility (i.e., the potential danger in continuing to send wastes to the site), against the adequacy of the record developed at the staff level and the due process concerns of the facility.

2. Notification of Immediate Unacceptability

In the proposed rule, EPA stated that "in case of either an extension or immediate unacceptability, the facility should be notified as quickly as possible" (53 FR 48228). One commenter asked that in cases where immediate unacceptability is triggered, the owner/operator be notified within 24 hours.

The Agency will make every effort to notify a facility as soon as possible after a finding of immediate unacceptability. In many cases, this may be within a 24-hour period. The Agency notes as well that in serious safety or emergency situations, it may be appropriate to make a finding of unacceptability effective in less than 60 days, although immediate unacceptability is not required. The rule has been changed to reflect this fact.

3. Potentially Responsible Parties

One commenter asked EPA to ascertain whether a determination of unacceptability might have an impact on removal or remedial actions being conducted by potentially responsible parties (PRPs). The commenter maintained that a representative of the PRPs should be allowed to attend any conference held on the determination of unacceptability.

A determination of unacceptability may have an impact on PRP actions if those actions are being conducted pursuant to a CERCLA authority or using CERCLA funds (e.g., a mixed funding case); in such a case, off-site transfers of CERCLA wastes would be required to comply with this rule.

EPA does not believe that it is necessary to invite PRPs to participate in its deliberation on acceptability determinations (although EPA may do so in appropriate cases). The effect of

EPA believes that it has established a system of review which will promote consistency in decisionmaking. The procedures to be applied are clearly set out, and will be overseen by coordinators in the ten EPA Regions. The Agency intends to provide training and guidance to these coordinators in order to assure consistent applications. The consistency problem identified by the district court and cited by a commenter, stemmed from implementation of the May 1985 Off-site Policy, which was dramatically more limited in scope and procedures than this final rule. Procedures for notice and opportunity to comment by affected facilities were added by the revised Off-site Policy in November 1987, and those procedures are being expanded by this rule. Moreover, the fact that such procedures will now be legally enforceable regulations—as compared to policy guidance—adds to the certainty that the procedures will be consistently followed.

The request for expeditious review by an impartial decisionmaker, other than the person who originally made the decision, is satisfied by the provision in the final rule for appeal to the Regional Administrator. The Regional Administrator is not involved in the day-to-day compliance and release findings of the Regional Waste Management Divisions, and does not make the initial acceptability determination based on the meetings with the owner/operator within 30 days of the notice letter. Rather, the Regional Administrator supervises all operations of the Region, and is available to hear appeals from those decisions, if requested.

It has been EPA's experience under the revised Off-site Policy that Regional Administrators do not rubber-stamp staff recommendations on off-site acceptability, and have overruled or remanded such recommendations in appropriate cases. The courts have further stated that Agency decisionmakers are presumed to be unbiased. See *Withrow v. Larkin*, 421 U.S. 35, 47 (1975).

4. Review Procedures

One commenter argued that the informal conference and written comment procedure (described at 53 FR 48227) is not sufficient for review, and suggested using the procedures proposed in 40 CFR 32.312 (d) and (e) (52 FR 39202, Oct. 20, 1987). This refers to proposed regulations for Debarment and Suspension under EPA Assistance, Loan, and Benefit Programs, which provide for an informal hearing without formal rules of evidence or procedure.

opportunity to appear with counsel, submit documentary evidence, and present and confront witnesses; and a transcript of the proceedings to be made available to the respondent.

The more complex debarment procedures are not appropriate for the Off-site Rule. The review procedures set out by EPA under the Off-site Rule already provide for an informal hearing, opportunity to appear with counsel, and submission of documentary evidence. EPA does not believe it is appropriate or necessary to call and confront witnesses in order to determine if the facility's operations reveal relevant violations or releases. Moreover, a key distinction between the two sets of rules is that acceptability is within the control of the owner/operator; unlike a disbarment for a set period of up to three years, unacceptability status may be terminated once the facility returns to physical compliance or controls relevant releases.

The informal procedures set out in the Off-site Rule are also consistent with the purpose and terms of the statute. CERCLA requires swift action in these cases; the use of procedures provided in this rule allow relatively quick action, while providing due process. Further, the procedures go well beyond those required in the statute (simple "notification") and those suggested in the Conference report on SARA ("an opportunity to meet informally," and "post-determination dispute resolution procedures" for release determinations). (See 53 FR 48227.)

EPA notes that only one commenter suggested that the rule's review procedures were inadequate.

5. Notification of Decisions

The proposal, at 53 FR 48227, provides that the Agency will inform the owner/operator "in writing" of its decision after the informal conference and review of comments. EPA thus agrees with the comment that the basis for all decisions should be clearly articulated in writing. EPA also agrees that owner/operators should receive responses to their major comments on the acceptability decision. Regions will specify in notices of unacceptability why a facility or unit has been found unacceptable, and in post-conference decisions why a final unacceptability determination has been made. Such steps will also facilitate the review by the Regional Administrator, who may limit review to the underlying record.

H. Re-Evaluation of Unacceptability

1. Thresholds/Enforceable Agreements

One commenter asked for a clarification on the threshold that will render a facility inappropriate for accepting waste.

The criteria for determining when a facility crosses the threshold into unacceptability are described in § 300.140(b). In short, for a facility to be acceptable to receive CERCLA wastes, it must have no relevant violations under applicable law, and it must control all relevant releases (and, for certain categories of facilities, eliminate all relevant releases at the receiving units). EPA will determine whether these criteria have been met based on regular inspections.

The commenter also objected to the requirement that a Federal facility must control relevant releases under an "enforceable agreement" in order to be acceptable to receive CERCLA wastes (53 FR 48229). The commenter noted that there may be fully-permitted units at Federal installations that could safely accept CERCLA wastes; however, these units will be unavailable because of the presence of releases elsewhere on the installation that are part of a facility-wide investigation, but not under an enforceable agreement. Thus, agencies would be forced to use facilities off the Federal property for receipt of CERCLA waste, adding to costs and delay.

Congress clearly stated that CERCLA wastes should not be transferred to leaking units at land disposal facilities or to land disposal facilities with leaking non-receiving units that are not being "controlled." EPA maintains that an enforceable agreement is necessary to ensure that such releases are controlled, and to ensure the continued implementation of a corrective action program approved by EPA or, when appropriate, the State. EPA sees no reason why Federal facilities should be treated differently from private parties (see CERCLA section 120(e)). Although it might be easier for some Federal facilities to use active RCRA units on their property to receive CERCLA wastes, they may only do so if those units meet the conditions set forth in this rule. The requirement to have relevant releases at non-receiving units controlled by an enforceable agreement may be satisfied through a permit (e.g., the corrective action portion of the RCRA permit), or consent agreement (e.g., an interagency agreement under CERCLA section 120), both of which are available to Federal facilities.

acceptability of facilities within their Region.

However, in order to ensure that the information is readily available, EPA will strongly encourage the maintenance of a back-up contact for use when the primary Off-Site Contact is unavailable. EPA will keep a copy of the ROCs in the Superfund docket and with the RCRA/CERCLA Hotline (a list is also included as Appendix I to this preamble, although it will obviously become outdated in the future, and interested parties should consult with the sources named for revised lists).

Due to the dynamic nature of the acceptability determinations, EPA has no plans at this time to publish a national list of acceptable (or unacceptable) units. The Agency believes that such lists could serve more as a source of misinformation (or out-of-date information) than reliable information. EPA's recognition of the dynamic nature of acceptability is reflected in the Agency's policy that an off-site facility does not need to be acceptable to bid on accepting waste from a CERCLA clean-up, but must be acceptable under this rule to be awarded such a contract.

In order to avoid problems resulting from contractors whose designated receiving facilities become unacceptable under this rule, agencies and PRPs may want to provide for back-up or alternative facilities in their contracts.

J. Manifest Requirements

One commenter objected to the statement in the preamble to the proposed rule (53 FR 48230) that limits the requirement to file a "Uniform Hazardous Waste Manifest" form to CERCLA wastes that are also RCRA wastes; the commenter asked that the requirement cover all types of wastes.

The preamble simply noted that already existing manifest requirements under RCRA must be met. There is no manifest requirement under CERCLA, and this rule does not establish an independent tracking system for CERCLA wastes. Compliance with the rule is assured through inspections, and enforcement of contract provisions.

V. Regulatory Analysis

A. Regulatory Impact Analysis

Under Executive Order No. 12291, EPA must determine whether a regulation is "major" and thus whether the Agency must prepare and consider a Regulatory Impact Analysis in connection with the rule. Today's rule is not major because it simply codifies an Agency policy that has been in effect since May of 1985 and largely mirrors

a revision of that policy that has been in effect since November of 1987. As discussed in the preamble to the proposed rule (53 FR 48230-48231), this rule contains criteria that EPA will use to determine where it will send waste from Superfund cleanups, but does not regulate or otherwise impose any new requirements on commercial waste handlers. Acceptability under this rule is largely based on compliance with applicable regulations the Agency already enforces. As a result of today's rule some facilities may choose to initiate corrective action sooner than if they waited for the corrective action conditions in their final operating permit pursuant to RCRA 3004 (u) and (v). However, regardless of the requirements of this rule, under the authority of section 3008(h) of RCRA, EPA already compels corrective action at RCRA interim status facilities with known or suspected releases. The rule, then, should not result in increased long-term costs to the commercial waste handling industry.

B. Regulatory Flexibility Act

Under the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, at the time an Agency publishes any proposed or final rule, it must prepare a Regulatory Flexibility Analysis that describes the impact of the rule on small entities, unless the Administrator certifies that the rule will not have a significant impact on a substantial number of small entities. Today's final rule describes procedures for determining the acceptability of a facility for off-site management of CERCLA wastes. It does not impose significant additional requirements or compliance burdens on the regulated community. Therefore, pursuant to 5 U.S.C. 601b, I certify that this regulation will not have a significant economic impact on a substantial number of small entities.

C. Paperwork Reduction Act

This rule does not contain any new information collection requirements subject to OMB review under the Paperwork Reduction Act, 44 U.S.C. 3501, *et seq.*

VI. Supplementary Document

APPENDIX I—REGIONAL OFF-SITE CONTACTS (ROCS)

Region	Primary contact/phone	Backup contact/phone
I	Lynn Hanlon, (617) 573-9002	Austine Frawley, (617) 573-1754

APPENDIX I—REGIONAL OFF-SITE CONTACTS (ROCS)—Continued

Region	Primary contact/phone	Backup contact/phone
II	Greg Zaccard, (212) 264-8504	Joel Solumbek, (212) 264-2638
III	Sarah Caspar, (215) 597-1857	Naomi Henry, (215) 597-8338
IV	Edmund Burks, (404) 347-7603	John Dickson, (404) 347-7603
V	Gertrud Matuschkovsz, (312) 353-7921	Ulysses McMahon, (312) 886-4445
VI	Ron Shannon, (214) 655-2282	Joe Dougherty, (214) 655-2281
VII	Gerald McKinney, (613) 551-7818	David Doyle, (613) 551-7887
VIII	Terry Brown, (303) 293-1823	George Danck, (303) 293-1508
IX	Diane Bodine, (415) 744-2130	Gloria Brownley, (415) 744-2114
X	Ron Litch, (206) 553-8848	Kevin Schanlec, (206) 553-1067

List of Subjects in 40 CFR Part 300

Air pollution control, Chemicals, Hazardous substance, Hazardous waste, Intergovernmental relations, Natural resources, Penalties, Reporting and recordkeeping requirements, Superfund, Water pollution control, Water supply.

Dated: September 14, 1993.

Carol M. Browner,
Administrator.

40 CFR part 300 is amended as follows:

PART 300—NATIONAL OIL AND HAZARDOUS SUBSTANCES CONTINGENCY PLAN

1. The authority citation for part 300 continues to read as follows:

Authority: 42 U.S.C. 9601-9657; 33 U.S.C. 1321(c)(2); E.O. 12777, 58 FR 54757, 3 CFR, 1991 Comp., p. 351; E.O. 12580, 52 FR 2923, 3 CFR, 1987 Comp., p. 193.

2. Section 300.440 is added to part 300 to read as follows:

§ 300.440 Procedures for planning and implementing off-site response actions.

(a) *Applicability.* (1) This section applies to any remedial or removal action involving the off-site transfer of any hazardous substance, pollutant, or

(iii) Releases are considered to be "controlled" for the purpose of this section as provided in § 300.440. (i)(3)(iv) and (i)(3)(v). A release is not considered "controlled" for the purpose of this section during the pendency of administrative or judicial challenges to corrective action requirements, unless the facility has made the requisite showing under § 300.440(e).

(c) *Basis for determining acceptability.* (1) If a State finds that a facility within its jurisdiction is operating in non-compliance with state law requirements including the requirements of any Federal program for which the State has been authorized, EPA will determine, after consulting with the State as appropriate, if the violation is relevant under the rule and if so, issue an initial determination of unacceptability.

(2) If a State finds that releases are occurring at a facility regulated under State law or a Federal program for which the State is authorized, EPA will determine, after consulting with the State as appropriate, if the release is relevant under the rule and if so, issue an initial determination of unacceptability.

(3) EPA may also issue initial determinations of unacceptability based on its own findings. EPA can undertake any inspections, data collection and/or assessments necessary. EPA will then notify with the State about the results and issue a determination notice if a relevant violation or release is found.

(d) *Determination of unacceptability.* (1) Upon initial determination by the EPA Regional Office that a facility being considered for the off-site transfer of any CERCLA waste does not meet the criteria for acceptability stated in § 300.440(b), the EPA Region shall notify the owner/operator of such facility, and the responsible agency in the State in which the facility is located, of the unacceptability finding. The notice will be sent by certified and first-class mail, return receipt requested. The certified notice, if not acknowledged by the return receipt card, should be considered to have been received by the addressee if properly sent by regular mail to the last address known to the EPA Regional Office.

(2) The notice shall generally state that based on available information from a RCRA Facility Assessment (RFA), inspection, or other data sources, the facility has been found not to meet the requirements of § 300.440; cite the specific acts, omissions, or conditions which form the basis of these findings; and inform the owner/operator of the procedural recourse available under this regulation.

(3) A facility which was previously evaluated and found acceptable under this rule (or the preceding policy) may continue to receive CERCLA waste for 60 calendar days after the date of issuance of the notice, unless otherwise determined in accordance with paragraphs (d)(8) or (d)(9) of this section.

(4) If the owner or operator of the facility in question submits a written request for an informal conference with the EPA Regional Office within 10 calendar days from the issuance of the notice, the EPA Regional Office shall provide the opportunity for such conference no later than 30 calendar days after the date of the notice. If possible, to discuss the basis for the underlying violation or release determination, and its relevance to the facility's acceptability to receive CERCLA cleanup wastes. State representatives may attend the informal conference, submit written comments prior to the informal conference, and/or request additional meetings with the EPA Region, relating to the unacceptability issue during the determination process. If no State representative is present, EPA shall notify the State of the outcome of the conference. An owner/operator may submit written comments by the 30th day after issuance of the notice, in addition to or instead of requesting an informal conference.

(5) If the owner or operator neither requests an informal conference nor submits written comments, the facility becomes unacceptable to receive CERCLA waste on the 60th day after the notice is issued (or on such other date designated under paragraph (d)(9) of this section). The facility will remain unacceptable until such time as the EPA Regional Office notifies the owner or operator otherwise.

(6) If an informal conference is held or written comments are received, the EPA Region shall decide whether or not the information provided is sufficient to show that the facility is operating in physical compliance with respect to the relevant violations cited in the initial notice of unacceptability, and that all relevant releases have been eliminated or controlled, as required in paragraph (b)(2) of this section, such that a determination of acceptability would be appropriate. EPA will notify the owner/operator in writing whether or not the information provided is sufficient to support a determination of acceptability. Unless EPA determines that information provided by the owner/operator and the State is sufficient to support a determination of acceptability, the facility becomes

unacceptable on the 60th calendar day after issuance of the original notice of unacceptability (or other date established pursuant to paragraphs (d)(8) or (d)(9) of this section).

(7) Within 10 days of hearing from the EPA Regional Office after the informal conference or the submittal of written comments, the owner/operator or the State may request a reconsideration of the unacceptability determination by the EPA Regional Administrator (RA). Reconsideration may be by review of the record, by conference, or by other means deemed appropriate by the Regional Administrator; reconsideration does not automatically stay the determination beyond the 60-day period. The owner/operator will receive notice in writing of the decision of the RA.

(8) The EPA Regional Administrator may decide to extend the 60-day period if more time is required to review a submission. The facility owner/operator shall be notified in writing if the Regional Administrator extends the 60 days.

(9) The EPA Regional Office may decide that a facility's unacceptability is immediately effective (or effective in less than 60 days) in extraordinary situations such as, but not limited to, emergencies at the facility or egregious violations. The EPA Region shall notify the facility owner/operator of the date of unacceptability, and may modify timeframes for comments and other procedures accordingly.

(e) *Unacceptability during administrative and judicial challenges of corrective action decisions.* For a facility with releases that are subject to a corrective action permit, order, or decree, an administrative or judicial challenge to the corrective action (or a challenge to a permit modification calling for additional corrective action) shall not be considered to be part of a corrective action "program" controlling those releases and shall not act to stay a determination of unacceptability under this rule. However, such facility may remain acceptable to receive CERCLA waste during the pendency of the appeal or litigation if:

(1) It satisfies the EPA Regional Office that adequate interim corrective action measures will continue at the facility; or

(2) It demonstrates to the EPA Regional Office the absence of a need to take corrective action during the short-term, interim period.

Either demonstration may be made during the 60-day review period in the context of the informal conference and RA reconsideration.

(f) *Re-evaluating unacceptability.* If, after notification of unacceptability and

2007-LTR-0939

Attachment 2

Notice of Violation #1

Storage of Waste Generated Onsite for More than One Year

Supporting Documentation

2007-LTR-0939

Attachment 3

Notice of Violation #2

Failure to Dispose of PCB Waste in Storage within One Year

Supporting Documentation

UNITED STATES POSTAL SERVICE



First-Class Mail
Postage & Fees Paid
USPS
Permit No. G-10

• Sender: Please print your name, address, and ZIP+4 in this box •

Pacific Eco Solution
2025 Bettelle Blvd
Richland WA. 99354

Attn: Jamie Granger

2004-LTR-0847

0007



SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Daniel Duncan
US-EPA - Region 10
1200 Sixth Ave, WCM-127
Seattle, WA. 98101

2. Article Number

(Transfer from service label)

7005 1820 0004 8071 6818

COMPLETE THIS SECTION ON DELIVERY

A. Signature

[Signature]

- ☐ Agent
☐ Addressee

B. Received by (Printed Name)

MARK L

C. Date of Delivery

AUG 17 2006

D. Is delivery address different from item 1?

- ☐ Yes
If YES, enter delivery address below: ☐ No

3. Service Type

- ☒ Certified Mail ☐ Express Mail
☐ Registered ☒ Return Receipt for Merchandise
☐ Insured Mail ☐ C.O.D.

4. Restricted Delivery? (Extra Fee)

- ☐ Yes

Granger, Jamie

From: Duncan.Daniel@epamail.epa.gov
Sent: Thursday, October 05, 2006 2:08 PM
To: Jamie Granger
Subject: Re: Status of the PCB Demonstration Material in Storage at Pacific EcoSolutions Extension

Jamie:

It is in process. I am working on it with Linda Meyer.

From the Desk Of:
Daniel L. Duncan
Office of Compliance & Enforcement

(206) 553-6693
(206) 553-1775 (FAX)

509.375.7022

www.pacificecosolutions.com

jamie.granger@pacificecosolutions.com

-----Original Message-----

From: meyer.linda@epa.gov [mailto:meyer.linda@epa.gov]

Sent: Monday, December 11, 2006 3:56 PM

To: Granger, Jamie

Cc: Granger, Jamie

Subject: RE: Expected Response Letter from EPA on the PCB Extension Request

Jamie - apologies for delays in this. I am currently juggling a very heavy work load and was not able to get assistance on this issue. A letter was mailed, I believe, last week. If this does not arrive in the next couple of days I will try to track it down.

Linda Meyer (AWT-121)

U.S. EPA Region 10

1200 Sixth Avenue

Seattle, WA 98101

phone (206)553-6636

fax (206)553-8509

"Granger, Jamie"

<jamie.granger@P
acificEcoSolutio
ns.com>

To

Linda Meyer/R10/USEPA/US@EPA

cc

12/11/2006 11:55

"Granger, Jamie"

AM

<jamie.granger@PacificEcoSolution
s.com>

Subject

RE: Expected Response Letter from
EPA on the PCB Extension Request

Linda,

I am curious when I can expect a response letter from EPA granting an extension for the continued storage of the PCB demonstration material.

Thanks.

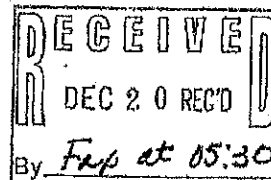
Regards,



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 10
1200 Sixth Avenue
Seattle, WA 98101

12 DEC 2006

Reply To
Attn Of: AWT-121

CERTIFIED MAIL RETURN RECEIPT REQUESTED

Ms. Jamie Granger
Regulatory Compliance Manager
Pacific EcoSolutions
2025 Battelle Blvd.
Richland, WA 99352

*from EPA. First notice
not legible
J. Granger
dated 12/22/06.*

Re: Pacific EcoSolutions (PEcoS) Mixed Waste/Mixed-TSCA Regulated PCB Waste Facility
Permit WAR 00001 0355 Request for Storage Extension of TSCA Regulated Mixed
Waste to September 30, 2007

Dear Ms. Granger:

This letter is in response to PEcoS's letter, dated August 14, 2006, to the U.S. Environmental Protection Agency Region 10 (EPA) in which PEcoS requested an extension to the approval for storage of Toxic Substances Control Act (TSCA) regulated legacy wastes. The current storage approval for the TSCA legacy waste expired on September 30, 2006. PEcoS's letter states that granting the extension provides a variance to permit condition ILF.5.f that requires treatment of waste and shipment offsite, if necessary, within 365 days of receipt or generation.

Based on the October 9, 2006, Fiscal Year 2006 Fourth Quarter, Legacy Mixed Waste and Mixed Polychlorinated Bi-phenyl (PCB) Waste Inventory Report (Legacy Report), there is a total of 71.3 cubic feet of PCB material remaining of the legacy waste. Based on discussions with PEcoS and according to the recent Legacy Report, this legacy waste was purchased for use in the demonstration tests for the rotary kiln and the plasma melter. EPA understands that your request for continued storage is to retain this PCB material onsite so it can be used to conduct demonstration testing for the plasma melter and rotary kiln units under an approved demonstration test plan. These units are currently being operated under the RCRA treatability study exemption.

On March 8, 2005, EPA and the Department of Ecology (Ecology) approved a Class 1 Permit Modification for changes to the permitted thermal treatment air pollution control system to allow for connection of the plasma melter and the rotary kiln. This modification requires that after December 31, 2006, PEcoS must conduct demonstration tests under an approved demonstration test plan (trial burn plan) pursuant to 40 C.F.R. § 270.62 (b)(2), 40 C.F.R. § 63.1207, 40 C.F.R. § 761.70(d)(2)(ii), and in accordance with permit condition VI.A.1 and VII, before the permit can be modified and the plasma melter and the rotary kiln can be operated. Neither the EPA nor Ecology has received a demonstration test plan for review.

IC-2006-037



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 10
1200 Sixth Avenue
Seattle, WA 98101

Office of Compliance and Enforcement
Groundwater Protection Unit

FAX COVER SHEET

TO: Jamie Hanger

FAX NUMBER: (509) 375-0613

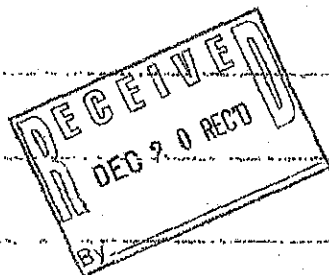
FROM: Lynn Chagaris-Taylor

PHONE: (206) 553-6356

FAX NUMBER (206) 553-0151

Number of Pages Including this sheet: 3

Comments: _____



- 2 -

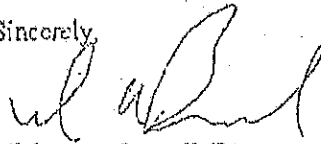
An extension, if granted, for continued storage of the PCB legacy waste, which is currently being held for future demonstration tests, will depend on EPA's receipt of a draft demonstration test plan of acceptable quality. The draft demonstration test plan must include a schedule for conducting the trial burn as described in the demonstration test plan and provide a basis for continued waste storage including the volumes of material required for conducting these tests.

Additionally, before EPA can grant an extension for continued storage of this material and within 30 days of your receipt of this notice, you must provide financial assurance consistent with 40 C.F.R. § 761.65 (g), including a cost estimate for disposing of this material at an off-site facility. PicoS is currently out of compliance with permit condition II.F.5.f.

EPA understands that PicoS is in the process of selling this facility. If this extension is approved, the extension shall only be applicable to the current Permittee and the extension terminates immediately upon transfer of ownership. If a new owner seeks an extension for the above referenced PCBs, the new owner must submit its own extension request with its requested modification for transfer of the PicoS permit, including appropriate financial assurance.

If you have any questions regarding this decision, please feel free to contact Daniel Duncan, PCB Coordinator of EPA's Region 10 Pesticides and Toxics Unit, Office of Compliance and Enforcement (OCE), at (206) 553-6693 or duncan.daniel@epa.gov.

Sincerely,



Michael A. Russell, Director
Office of Compliance and Enforcement

cc: Sterling Detrick, Ecology
Paul Paulsen, DOH
Sean Murphy, DOH
Ron Skinnerland, Ecology

Third Issue - PEcoS Intentions Regarding the Thermal Treatment Units

Enumerated below are PEcoS' intentions regarding operations of the Plasma Furnace System (PFS) and Rotary Thermal Desorber (RTD) units that were involved in treatability studies. The treatability studies for these units were being performed under the exemptions in Title 40 of the *Code Federal Regulations* Part 261 [40 CFR 261.4(f)]. The immediate plans were for the termination of the treatability studies on December 31, 2006 and this termination *has been implemented*.

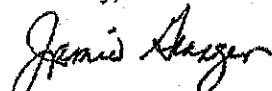
Additionally, PEcoS is planning to fully permit these units in accordance with the Resource Conservation and Recovery Act (RCRA) requirements. Additionally, PEcoS recognizes that the Hazardous Waste Combustor (HWC) National Emission Standard for Hazardous Air Pollutants (NESHAP) and Title V requirements will become applicable in the near future. PEcoS is committed to complying with all of the Clean Air Act (CAA) requirements that are applicable to these units. PEcoS' current plan calls for the completion and submission of the RCRA permit application. While the Washington State Department of Ecology (Ecology) and the EPA are reviewing this application, PEcoS will prepare the required Title V permit application. PEcoS will be coordinating with the EPA, Benton Clean Air Authority (BCAA), and Ecology on the overlapping requirements (such as a RCRA Trial Burn versus a CAA Comprehensive Performance Test). Before submitting any documents, PEcoS intends to meet with the EPA, Ecology, and BCAA (ideally at the same time) to develop a permitting strategy that meets the requirements of each agency. PEcoS will contact each agency in the future to set up these meetings. *In the meantime, it is important to note that neither the PFS nor the RTD are currently operating unless approval is granted from the individual agencies.*

Fourth Issue - Requirement for Submittal of Demonstration Plan within 30 Days

The request for a demonstration plan of acceptable quality within 30 days of the official notice is not practical for several reasons. Currently, PEcoS does not have the technical expertise in-house to prepare a demonstration plan of acceptable quality. Ideally, the demonstration plan preparation should proceed in parallel with the preparation of the permit modification request.

Finally, PEcoS would like to propose a meeting in the Region 10 office to discuss permitting issues associated with the Mixed Waste Facility. Should you have any questions regarding or require additional information, please do not hesitate to contact Jamie Granger at (509) 375-7022 (email address jamie.granger@pacificecosolutions.com).

Sincerely,



Jamie Granger
Regulatory Compliance Manager

cc: Dave Dalton, PEcoS
Curt Cannon, PEcoS
Jim Cesario, PEcoS
Sandy Muller, Nuvotec
Linda Meyer, EPA
Regulatory File, PEcoS



December 27, 2006
Clean Harbors Environmental Services, Quote #424334

Page 2 of 4

DISPOSAL

UIC or Waste Code	Waste Description	Qty	UOM	Price	Total
DHS	HIGH BTU PCB LIQUIDS FOR INCINERATION	5	55 gallon drum	\$ 275.00	\$ 1,375.00
DHS	HIGH BTU PCB LIQUIDS FOR INCINERATION	3	83 gallon drum	\$ 396.75	\$ 1,190.25
Total					\$ 2,565.25

TRANSPORTATION

Dispatch Location	Qty	Price	UOM	Total
Freelife	2	\$35.00	container	\$350.00

*Minimum charge \$350.00 per trip.

A demurrage charge of \$ 53.00 per hour will apply as follows:

Number of Containers	Allowable Loading Time
1 to 5	0.5 hour(s)
6 to 10	0.5 hour(s)
11 to 15	0.75 hour(s)
16 to 20	1 hour(s)
21 to 25	1 hour(s)
26 to 30	1.25 hour(s)
31 to 35	1.25 hour(s)
36 to 40	1.5 hour(s)
41 to 45	1.5 hour(s)
46 to 50	1.75 hour(s)
51 to 55	1.75 hour(s)
56 to 60	2 hour(s)
61 to 65	2.25 hour(s)
66 to 70	2.5 hour(s)

ESTIMATED RECOVERY FEE

\$277.52

QUOTE TOTAL ESTIMATE

\$3,198.77

GENERAL CONDITIONS

1. Prices firm for 30 days.
2. Terms: Net 15 Days
3. Interest to accrue at the rate of 1.5% per month or the maximum allowed by law after 15 days.
4. Applicable sales tax and state regulatory fees are not included in quoted prices.

~ "People and Technology Creating a Better Environment" ~

DEC-27-2006 14:38 FROM:

TO: 15693750613

P. 4



December 27, 2006
Clean Harbors Environmental Services, Quote #424334

Page 4 of 4

ACKNOWLEDGEMENT

Your signature below indicates your acceptance of the pricing and terms detailed in the quote above.

Thank you for the opportunity to be of service.

Signature

PO#

Date

Print Name

Quote #424334

"People and Technology Creating a Better Environment"



Pacific EcoSolutions, Inc. . . . A New Vision for Waste Management

A subsidiary of Nuvotec_{USA}

www.pacificecosolutions.com

CERTIFIED MAIL

2007-LTR-0911
May 18, 2007

Daniel Duncan
Office of Compliance and Enforcement
United States Environmental Protection Agency-Region 10
1200 Sixth Avenue, OCB-164
Seattle, WA 98101

Ms. Linda Meyer
United States Environmental Protection Agency - Region 10
1200 Sixth Avenue, AWT-121
Seattle, WA 98101

**RE: Pacific EcoSolutions, Inc. (PEcoS) Mixed Waste Facility
Permit Number WAR000010355
Permit Modification Request (PMR) for the Sampling of the Polychlorinated Biphenyl (PCB)
Demonstration Materials in the Waste Storage Bay #4**

Dear Mr. Duncan and Ms. Meyer:

This Permit Modification Request (PMR) is necessary to confirm the Polychlorinated Biphenyl (PCB) demonstration materials currently in storage in Waste Storage Bay #4 are non-radioactive. Currently, these containers are in storage at the Pacific EcoSolutions, Inc (PEcoS) facility in Waste Storage Bay #4. The decision has been made to dispose of the PCB demonstration materials. Ideally, PEcoS would like ship this material offsite for disposal prior to the change of ownership of the facility.

PEcoS is requesting a modification to the Permit for this sampling activity, since the only permitted location for the management of PCB material in liquid form is the GASVITTM HAZMAT Enclosure. However, the HAZMAT Enclosure is radioactively contaminated and there is a concern for accidental cross contamination of the PCB Demonstration materials during the sampling activities in this location.

Please note that the existing Permit does not allow the management of Toxic Substance Control Act (TSCA) regulated materials in the Stabilization Building since PCBs were not included in the risk assessment for the Stabilization Building. Furthermore, the only area available for sampling in the Stabilization Building is not configured for the management of large quantities of liquids and is also highly radioactively contaminated. As the purpose of this sampling is to confirm the demonstration material is not radioactively contaminated, it does not make sense to purposely move this material into an area known to be radioactively contaminated.

Due to the nature of this waste, it is unlikely that sampling this waste under ambient conditions in Waste Storage Bay #4 would result in any PCB emissions. Additionally, the time required to sample the PCB demonstration materials would not likely exceed a couple of hours.

Corporate: 723 The Parkway • Richland, WA 99352 • (509) 943-5319 • Fax (509) 943-5560
Plant: 2025 Battelle Blvd. • Richland, WA 99354 • (509) 375-5160 • Fax (509) 375-0613



Fax Transmittal Cover Sheet

Date: 12/20/04To: Xiang-Yu GeOf: EPAFax No.: 206-553-8509Pages (inc. cover sheet): 3From: Laurel MuschickoPhone: 425-204-7063Re: 60-day Notice ofFax No.: 425-204-7164Remarks: Unacceptability Extension

The information contained in this transmission is privileged and confidential and/or it is confidential business information. It is intended for the use of the individual(s) or entity(ies) named above. IF THE READER OF THIS MESSAGE IS NOT THE AUTHORIZED RECIPIENT, YOU ARE HEREBY NOTIFIED THAT YOU ARE NOT AUTHORIZED TO REVIEW THE FOLLOWING PAGES AND THAT ANY DISSEMINATION, DISTRIBUTION, OR COPY OF THIS COMMUNICATION IS STRICTLY PROHIBITED. If you have received this communication in error, please notify us immediately by telephone and return the original message to us at the address below via the US postal service. We will reimburse you for the postage. Thank you.

PSC Western Region
18000 72nd Ave, S Suite 217
Kent, WA 98032
Main: (425) 227-0311
Fax: (425) 204-7164



December 20, 2004

VIA FACSIMILE &
CERTIFIED MAIL
7001 2510 0004 4517 7859

Michael A. Bussell
Director, Office of Compliance and Enforcement
M/S OCE-164
USEPA Region 10
1200 Sixth Avenue
Seattle, WA 98101

Re: Request for Extension - 60-Day Notice of Unacceptability, Burlington Environmental Inc., Kent Facility, a wholly owned subsidiary of Philip Services Corporation (PSC), EPA ID No. WAD991281767

Dear Mr. Bussell:

As recommended by Xiang-Yu Ge during a telephone conversation on December 17, 2004, PSC would like to request an extension to EPA's 60-day Notice of Unacceptability (Notice) dated October 26, 2004, concerning the Washington State Department of Ecology's (Ecology) August 11, 2004 inspection report for the Burlington Environmental Inc., Kent Facility.

PSC is requesting an extension to the Notice to allow ample time for resolution of issues associated with Ecology's August 11, 2004 inspection report for the Burlington Environmental Inc., Kent Facility. The following timetable outlines the order of events thus far:

- August 11, 2004 - Ecology conducts an inspection of the BEI-Kent facility
- September 29, 2004 - Ecology issues a report for the August 11, 2004 inspection
- October 26, 2004 - EPA issues 60-day Notice of Unacceptability
- October 29, 2004 - PSC responds to Ecology's September 29, 2004 report
- November 12, 2004 - PSC responds to EPA's 60-day Notice of Unacceptability
- December 8, 2004 - Ecology responds to PSC's October 29, 2004 correspondence, closing out all but one of the outstanding issues from the August 11, 2004 inspection.

Based on this schedule, PSC suggests an extension to the Notice until January 31, 2005, so that time would be available, if needed, for additional correspondence or follow-up. PSC will submit a response to Ecology's December 8, 2004 letter by December 23, 2004.

If you have any questions or require any additional information, please contact me at (425) 204-7063.



Sincerely,

A handwritten signature in black ink, appearing to read "Laurel Muselwhite", is written over the typed name.

Laurel Muselwhite
Environmental Compliance Specialist

Enclosure

cc: Xiang-Yu Ge, EPA
Leslie Morris, Ecology
Galen Tritt, Ecology





UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 10
1200 Sixth Avenue
Seattle, Washington 98101

MAR 15 2007

Reply to
Attn of: OCE-127

CERTIFIED MAIL Number 7006 0810 0003 8941 3493
RETURN RECEIPT REQUESTED

Mr. Wilmer Briggs, Owner
Fuel Processors, Inc.
Oil Re-Refining Company
4150 North Suttle Road
Portland, Oregon 97217

**Re: Comprehensive Environmental Response Compensation and Liability Act
(CERCLA) Off-Site Rule; Affirmative Determination of Acceptability for the Fuel
Processors, Inc. and Oil Re-Refining Company facility, Portland, Oregon
EPA ID Number ORD 98097 5692**

Dear Mr. Briggs:

This letter serves to inform you that the U.S. Environmental Protection Agency (EPA) Region 10, pursuant to 40 CFR Section 300.440(a), has completed an initial assessment of the Fuel Processors, Inc. and the Oil Re-Refining Company facility ("Facility") and made a determination that the facility may receive non-hazardous waste generated off-site pursuant to the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA).

Off-site wastes are defined as those wastes generated as a result of activities authorized or funded by CERCLA, 42 USC Section 9607, as amended. On September 22, 1993, EPA amended the National Oil and Hazardous Substances Pollution Contingency Plan (NCP), 40 CFR Part 300 by adding section 300.440, commonly known as the "Off-Site Rule", a copy of which is enclosed.

The Facility is located at 4150 North Suttle Road in Portland, Oregon. It receives used oil as defined at 40 CFR Part 279 and solid wastes that are not hazardous wastes as defined at 40 CFR Part 261 and these wastes are treated and/or disposed of. A review of federal and state agency records indicates that the Facility is currently in substantial compliance with the Facility's permits and/or applicable federal and state environmental requirements. Therefore, upon receipt of this letter, Fuel Processors, Inc. and the Oil Re-Refining Company are acceptable to receive non-hazardous CERCLA off-site waste. EPA reserves the right to reevaluate this determination should any additional information become available. This notice does not authorize the facility to undertake any waste management practices which have not been

Should you have any questions concerning this matter, please contact me at 206-553-1061.

Sincerely,

Kevin Schanilec
Acting Regional Off-Site Coordinator
Office of Compliance and Enforcement

Enclosure

cc: Gary Wall, ODEQ
Tiffany Yelton, ODEQ

bcc: Kevin Schanilec, OCE-127
Site file, folder 4(c)
Bob Hartman, ORC-158
Tim Brincefield, ECL-112

L:\Air-RCRA\Schanilec\FPI OS letter.doc

CONCURRENCES				POLICY FILE
Initials	<i>KS</i>	<i>RBH</i>	<i>JK</i>	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
Name:	Kevin Schanilec ORC-127	Rob Hartman ORC-158	Jeff KenKnight, Mgr. Air/RCRA Unit	If policy file please bcc to RMSPU Manager
Date:	<i>3/12/07</i>	<i>3/12/07</i>	<i>3/15/07</i>	
RCRAInfo EVENT Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>				
SNC IDENTIFICATION Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>				
(Can it be entered in RCRAInfo?) Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>				
SBREFA INFO VERIFICATION Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>				
PEER REVIEW Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>				



ORD 5612
3/29/07
4C

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 10
1200 Sixth Avenue
Seattle, Washington 98101

MAR 29 2007

Reply To
Attn of: OCE-127

CERTIFIED MAIL NUMBER 7006 2760 0004 3618 7278
RETURN RECEIPT REQUESTED

Mr. John Oxford, Vice President of Compliance
Oil Re-Refining Company
4150 North Suttle Road
Portland, Oregon 97217

**Re: Comprehensive Environmental Response Compensation and Liability Act
(CERCLA) Off-Site Rule: Affirmative Determination of Acceptability for the Fuel
Processors, Inc. and Oil Re-Refining Company facility, Portland, Oregon
EPA ID Number ORD 98097 5692**

Dear Mr. Oxford:

This is in regards to the CERCLA Off-Site status for Oil Re-Refining Company (ORRCO) and Fuel Processors, Inc. (FPI). The acceptability status for these two co-located facilities was confirmed by EPA's letter of March 15, 2007, received by you on March 19, 2007.

I recently received a copy of a March 7, 2007, letter that you sent to all of your customers, a copy of which is enclosed, regarding your CERCLA acceptability status. Your letter contains a factual error, specifically that the EMRI and IOI facilities were inspected and found acceptable. In fact, these two facilities are not acceptable to receive CERCLA waste. They were not included in the initial request for acceptability submitted by your attorney, and as a result were not evaluated as part of the review process. I would caution that even if CERCLA waste is initially received at an acceptable facility such as ORRCO, it may not be transferred to another facility such as EMRI or IOI that has not been found acceptable to receive CERCLA waste.

Within seven calendar days of receipt of this letter, I hereby request that you confirm in writing whether or not any CERCLA waste has been received or otherwise managed at the EMRI, IOI or other facility which has not been found acceptable for the receipt of CERCLA waste. If any waste has been received or otherwise managed at such a facility, provide full details of such wastes including but not limited to the date, amount, generator and full physical and chemical description of the waste.

bcc: Tim Brincefield, ECL-112
Bob Hartman, ORC-158
Dean Ingemansen, CID
Jean Pascal, ORC
Mike Slater, OOO
Site File, OR 5692

L:\Air-RCRA\Schanilec\Fuel processors final March 2007.doc



Leaders in Recycling

March 7, 2007

To All of Our Customers:

I just received word from our attorney, the C.E.R.C.L.A. Inspection committee has just concluded their inspection of FPI, EMRI, IOI, and ORRCO. We passed with flying colors, again. So we have been approved, by the EPA Region 10 to take wastes from C.E.R.C.L.A. sites, Thank you for your continued patronage and patience.

A handwritten signature in dark ink, appearing to read "John Oxford", is written in a cursive style.

John Oxford
V.P. of Compliance
Oil Re-Refining Co.



OBRIEN Audrey
<OBRIEN.Audrey@deq.state.
or.us>

01/17/2007 04:58 PM

To Kevin Schanilec/R10/USEPA/US@EPA

cc YELTON Tiffany <YELTON.Tiffany@deq.state.or.us>

bcc

Subject RE: CERCLA Acceptability Status for Fuel Processors/Oil
Rerefining, Portland, OR

Ok, Kevin, we will let you know when their permit is issued. Thanks.
Audrey

-----Original Message-----

From: Schanilec.Kevin@epamail.epa.gov
[mailto:Schanilec.Kevin@epamail.epa.gov]
Sent: Wednesday, January 17, 2007 4:57 PM
To: OBRIEN Audrey
Subject: RE: CERCLA Acceptability Status for Fuel Processors/Oil
Rerefining, Portland, OR

Great! Let me know if/when they are in compliance, and we can run them
through the evaluation again.

Thanks for all the helpful info!

Kevin

Kevin Schanilec
Compliance Officer, Air/RCRA Compliance Unit
US Environmental Protection Agency, Region X
1200 Sixth Avenue (Mail Stop OCE-127)
Seattle, WA 98101
(206) 553-1061
(206) 553-8509 (fax)
schanilec.kevin@epa.gov

OBRIEN Audrey
<OBRIEN.Audrey@d
eq.state.or.us>

01/17/2007 04:52
PM

To
Kevin Schanilec/R10/USEPA/US@EPA
cc

Subject
RE: CERCLA Acceptability Status
for Fuel Processors/Oil
Rerefining, Portland, OR

Yes, they know but are waiting to hear back from us on the specifics.
Chris was in agreement that they want a SW permit.

Thanks.
Audrey

-----Original Message-----

From: Schanilec.Kevin@epamail.epa.gov
[mailto:Schanilec.Kevin@epamail.epa.gov]
Sent: Wednesday, January 17, 2007 4:31 PM
To: OBRIEN Audrey
Subject: RE: CERCLA Acceptability Status for Fuel Processors/Oil
Rerefining, Portland, OR

Hi Audrey:

I checked the regs, and we had to get something to him, so I wasn't able to wait.

I am presuming that they more or less know the gist of what they need to do?

Thanks - Kevin

Kevin Schanilec
Compliance Officer, Air/RCRA Compliance Unit
US Environmental Protection Agency, Region X
1200 Sixth Avenue (Mail Stop OCE-127)
Seattle, WA 98101
(206) 553-1061
(206) 553-8509 (fax)
schanilec.kevin@epa.gov

OBRIEN Audrey
<OBRIEN.Audrey@
eq.state.or.us>

01/17/2007 04:23
PM

To
Kevin Schanilec/R10/USEPA/US@EPA
cc

Subject
RE: CERCLA Acceptability Status
for Fuel Processors/Oil
Rerefining, Portland, OR

Hi Kevin,

Thanks and sorry for not getting you any more specifics prior to you sending this to Chris Harris. At this point, it does not look like you need anything more from me. Let me know if you do.

Audrey O'Brien
Manager, Environmental Partnerships Section
Northwest Region
Oregon Department of Environmental Quality
(503) 229-5072
fax (503) 229-6945
obrien.audrey@deq.state.or.us

-----Original Message-----

From: Schanilec.Kevin@epamail.epa.gov
[mailto:Schanilec.Kevin@epamail.epa.gov]
Sent: Wednesday, January 17, 2007 3:51 PM
To: GALLATING@AOL.COM
Cc: Hartman.Bob@epamail.epa.gov; OBRIEN Audrey
Subject: CERCLA Acceptability Status for Fuel Processors/Oil Rerefining, Portland, OR

Mr. Harris:

This is in follow-up to your recent telephone inquiry, requesting that your client, Fuel Processors Incorporated/Oil Rerefining Company, be evaluated for acceptability for CERCLA wastes.

Such determinations are made pursuant to 40 CFR 300.440 (Off-Site Rule). Pursuant to 40 CFR 300.440(b), EPA must evaluate compliance information regarding this facility for purposes of determining whether or not "relevant violations" exist. Per 40 CFR 300.440(c)(1), if a State finds that a facility within its jurisdiction is operating in non-compliance with state law requirements, EPA will determine if the violation is relevant under the Off-Site Rule.

Based on communications with the State of Oregon's Northwest Region Environmental Partnerships program, the facility is in violation of the State requirement to have a solid waste permit for the management of non-hazardous wastes received at the property. Based on the criteria in the Off-Site Rule, this is a "relevant violation" for purposes of determining the acceptability status of a facility. Therefore, an acceptability determination cannot be made at this time for the Fuel Processors Incorporated/Oil Rerefining Company facility. Once the State Solid has confirmed to EPA that there is no longer a violation, your client's facility may be re-evaluated.

Please contact me if you have any questions in this matter. Legal questions should be directed to Robert Hartman, Assistant Regional Counsel, at (206) 553-0029.

Sincerely,

Kevin Schanilec
Compliance Officer, Air/RCRA Compliance Unit
US Environmental Protection Agency, Region X
1200 Sixth Avenue (Mail Stop OCE-127)

Seattle, WA 98101
(206) 553-1061
(206) 553-8509 (fax)
schanilec.kevin@epa.gov



Leaders in Recycling

March 7, 2007

To All of Our Customers:

I just received word from our attorney, the C.E.R.C.L.A. Inspection committee has just concluded their inspection of FPI, EMRI, IOI, and ORRCO. We passed with flying colors, again. So we have been approved, by the EPA Region 10 to take wastes from C.E.R.C.L.A. sites, Thank you for your continued patronage and patience.

A handwritten signature in dark ink, appearing to read "John Oxford", is written in a cursive style.

John Oxford
V.P. of Compliance
Oil Re-Refining Co.



CHRISTOPHER HARRIS
ATTORNEY

1511 WEST BARCOCK
BOZEMAN, MONTANA 59715

406 586-9902
406 586-9903 (Fax)
GALLATING@AOL.COM

To: John Oxford
From: Christopher Harris
Subject: EPA Approval of Fuel Processors, Inc. to Accept Contaminated
Soil and PCB-Contaminated Oil from CERCLA Sites
Date: March 7, 2007

This confirms our conversation earlier today in which I informed you that Kevin Schanilac, who is the EPA Region 10 official, assigned to reviewing the eligibility of Fuel Processors, Inc. ("FPI") to accept for processing contaminated soil and PCB-contaminated oil from CERCLA sites has approved FPI's eligibility. This approval, which has been effective since 12 noon, Monday, March 5, 2007, means that Oil Re-Refining, Inc. ("ORRCO") can pick up and transport such contaminated soils and PCB-contaminated oil for processing by FPI at its North Suttle Road facility in Portland, Oregon.

Mr. Schanilac informed me that he would issue a formal confirmation of EPA's approval sometime next week after he returns to his office.

If you wish to obtain more information, Mr. Schanilac's office telephone number is (206) 553-1061.

FAX COVER SHEET

TO: Kevin Schanilec
OFFICE: EPA Region 10, CERCLA
PHONE: 206 553 - 1061
FAX: 206 553 - 8509
DATE: 3/21/07



State of Oregon
Department of
Environmental
Quality

Northwest Region
Office
2020 SW 4th Avenue
Suite 400
Portland, OR 97201
Phone: 503 229-5263

FROM: Tiffany Yelton
OFFICE: Solid Waste NWR
PHONE: 503 229 5049

RETURN FAX: (503) 229-6945

Number of pages (including this cover sheet): 4

Comments:

Thanks Kevin! I had the idea that we could do a letter together or separate letters coordinated to remind them that they can take used oil and solid wastes (non-haz) and that they must respect the ^{HAW} designation of the waste in the state of its origin. That clause is in the Solid Waste letter of authorization we issued to them.

Tiffany

Oil Re-Refining Co. - Fuel Processors

From the desk of..... John Oxford 3-2-02

Dear Audrey O'Brien
D.E.Q. 503 272-6245

Audrey, would you copy
this for [REDACTED] and David
Wall, and yourself. Thanks
for all your help. 3 Pages

John Oxford
OIRCO.

(503) 286-8352

Cell (503) 314-0454 • Fax (503) 286-5027

4150 N. Suttle Road • Portland, Oregon 97217



Leaders in Recycling

FAX TRANSMITTAL

Date: 4-11-07
of Pages: 3

FAX #: 206 553 2909

Please Deliver to: Kerim Schwinke
Company: EPA

From: John Offord
RE: Letter sent Involving apology

COMMENTS:

This message and the following pages are intended only for the person whom it is addressed and may contain information that is privileged, confidential, and exempt from disclosure under applicable law. If the reader of this message is not the intended recipient, you are hereby notified that any dissemination, distribution, or copying of this communication is strictly prohibited. If you received this document in error, please notify us immediately by phone. Thank you.

Phone #: 503-286-8352 -or- 800-367-8894



Leaders in Recycling

April 11, 2007

Dear Customers,

Recently I sent you a short letter stating that finally we were notified by EPA that we had received their approval to take CERCLA wastes. The way I stated the message was incorrect and I do heartily apologize for this mistake. As EPA correctly pointed out, I stated that Oil Re-Refining, Fuel Processors, Energy and Material Recovery, Inc, and Industrial Oil Inc has been inspected and were approved by the EPA to take CERCLA wastes. It was not my interest to mislead anyone. What I should have said is that EPA had approved Fuel Processors and Oil Re-Refining Co. to take CERCLA wastes period. Again I do apologize for the error on my part.

Now, we were so excited about getting the approval, which had shut down, that business for almost a year, I inadvertently included our other 2 plants. They are registered off spec oil burners that can burn #2 to 49ppm PCB oils. But not those generated by CERCLA locations. Again please accept my apology for any confusion I may have caused. Thank you for your customer patronage and support.

Sincerely,

John Oxford
V.P. of Compliance
4150 N Suttle Rd.
Portland, OR 97217

Oil Re-Refining Co. - Fuel Processors

From the desk of..... John Oxford 4-11-07

To: Kevin Beleniche

From: John Oxford

Dear Kevin attached are the
copies of the communications
with those I had written
the original letter to.

Regards
John Oxford

cc C Harris
attorney

W.S. Briggs
CEO.

(503) 286-8352

Cell (503) 314-0454 • Fax (503) 286-5027

4150 N. Suttle Road • Portland, Oregon 97217



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 10**

1200 Sixth Avenue
Seattle, Washington 98101

MAR 15 2007

Reply to
Attn of: OCE-127

**CERTIFIED MAIL Number 7006 0810 0003 8941 3493
RETURN RECEIPT REQUESTED**

Mr. Wilmer Briggs, Owner
Fuel Processors, Inc.
Oil Re-Refining Company
4150 North Suttle Road
Portland, Oregon 97217

**Re: Comprehensive Environmental Response Compensation and Liability Act
(CERCLA) Off-Site Rule; Affirmative Determination of Acceptability for the Fuel
Processors, Inc. and Oil Re-Refining Company facility, Portland, Oregon
EPA ID Number ORD 98097 5692**

Dear Mr. Briggs:

This letter serves to inform you that the U.S. Environmental Protection Agency (EPA) Region 10, pursuant to 40 CFR Section 300.440(a), has completed an initial assessment of the Fuel Processors, Inc. and the Oil Re-Refining Company facility ("Facility") and made a determination that the facility may receive non-hazardous waste generated off-site pursuant to the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA).

Off-site wastes are defined as those wastes generated as a result of activities authorized or funded by CERCLA, 42 USC Section 9607, as amended. On September 22, 1993, EPA amended the National Oil and Hazardous Substances Pollution Contingency Plan (NCP), 40 CFR Part 300 by adding section 300.440, commonly known as the "Off-Site Rule", a copy of which is enclosed.

The Facility is located at 4150 North Suttle Road in Portland, Oregon. It receives used oil as defined at 40 CFR Part 279 and solid wastes that are not hazardous wastes as defined at 40 CFR Part 261 and these wastes are treated and/or disposed of. A review of federal and state agency records indicates that the Facility is currently in substantial compliance with the Facility's permits and/or applicable federal and state environmental requirements. Therefore, upon receipt of this letter, Fuel Processors, Inc. and the Oil Re-Refining Company are acceptable to receive non-hazardous CERCLA off-site waste. EPA reserves the right to reevaluate this determination should any additional information become available. This notice does not authorize the facility to undertake any waste management practices which have not been

ORD 5692
3/15/07
4e

Should you have any questions concerning this matter, please contact me at 206-553-1061.

Sincerely,

Kevin Schanilec
Acting Regional Off-Site Coordinator
Office of Compliance and Enforcement

Enclosure

cc: Gary Wall, ODEQ
Tiffany Yelton, ODEQ

bcc: Kevin Schanilec, OCE-127
Site file, folder 4(c)
Bob Hartman, ORC-158
Tim Brincefield, ECL-112

L:\Air-RCRA\Schanilec\FPI OS letter.doc

CONCURRENCES				POLICY FILE
Initials	<i>KS</i>	<i>RBH</i>	<i>JK</i>	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
Name:	Kevin Schanilec ORC-127	Rob Hartman ORC-158	Jeff KenKnight, Mgr. Air/RCRA Unit	If policy file please bcc to RMSPU Manager
Date:	<i>3/12/07</i>	<i>3/13/07</i>	<i>3/15/07</i>	
RCRAInfo EVENT SNC IDENTIFICATION (Can it be entered in RCRAInfo?) Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>				
SBREFA INFO VERIFICATION Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>				
PEER REVIEW Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>				

Should you have any questions concerning this matter, please contact me at 206-553-1061.

Sincerely,

Kevin Schanilec
Acting Regional Off-Site Coordinator
Office of Compliance and Enforcement

Enclosure

cc: Gary Wall, ODEQ
Tiffany Yelton, ODEQ

bcc: Kevin Schanilec, OCE-127
Site file, folder 4(c)
Bob Hartman, ORC-158
Tim Brincefield, ECL-112

L:\Air-RCRA\Schanilec\FPI OS letter.doc

CONCURRENCES				POLICY FILE	
Initials	<i>KS</i>	<i>REH</i>	<i>JK</i>	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
Name:	Kevin Schanilec ORC-127	Rob Hartman ORC-158	Jeff KenKnight, Mgr. Air/RCRA Unit	If policy file please bcc to RMSPU Manager	
Date:	3/12/07	3/13/07	3/15/07		
RCRAInfo EVENT SNC IDENTIFICATION (Can it be entered in RCRAInfo?) Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>					
SBREFA INFO VERIFICATION Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>					
PEER REVIEW Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>					



Leaders in Recycling

FAX TRANSMITTALDate: 4-9-07# of Pages: 2FAX #: 206553 ²⁹⁰⁹~~8509~~Please Deliver to: Kevin Schenker
Company: EPAFrom: John Offord
RE: Apology LetterCOMMENTS:

Kevin if you would please
look the letter over and please
make comments on the letter
and let me know what
John

This message and the following pages are intended only for the person whom it is addressed and may contain information that is privileged, confidential, and exempt from disclosure under applicable law. If the reader of this message is not the intended recipient, you are hereby notified that any dissemination, distribution, or copying of this communication is strictly prohibited. If you received this document in error, please notify us immediately by phone. Thank you.

Phone #: 503-286-8352 -or- 800-367-8894

April 6, 2007

Dear Customers,

Recently I sent you a short letter stating that finally we were notified by EPA that we had received their approval to take CERCLA wastes. The way I stated the message was incorrect and I do heartily apologize for this mistake. As EPA correctly pointed out, I stated that Oil Re-Refining, Fuel Processors, Energy and Material Recovery, Inc, and Industrial Oil Inc has been inspected and were approved by the EPA to take CERCLA wastes. It was not my interest to mislead anyone. What I should have said is that EPA had approved Fuel Processors and Oil Re-Refining Co. to take CERCLA wastes period. Again I do apologize for the error on my part.

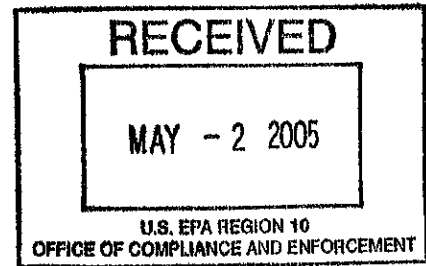
Now, we were so excited about getting the approval, which had shut down, that business for almost a year, I inadvertently included our other 2 plants. They are registered off spec oil burners that can burn #2 to 49ppm PCB oils. But not those generated by CERCLA locations. Again please accept my apology for any confusion I may have caused. Thank you for your customer patronage and support.

Sincerely,

John Oxford
V.P. of Compliance
4150 N Suttle Rd.
Portland, OR 97217



WASTE CONNECTIONS INC.
Connect with the Future®



Xiang-yu Ge
USEPA Region X
1200 6th Avenue
Mail Stop WCM 126
Seattle, WA 98101

April 29, 2005

Dear Xiang-yu Ge;

Please let this letter serve as the 2005-2006 annual request for continued listing of the Finley Buttes Regional Landfill and Wasco County Landfill as landfills approved for receipt of non-hazardous CERCLA wastes.

Finley Buttes Regional Landfill

Finley Buttes Regional Landfill: 73221 Bombing Range Road; Boardman, Oregon 97818
Home Office Address: P.O. Box 61726; Vancouver, Washington 98666
EPA ID# ORD 987199643
Company Environmental Contact: Pamela S. Pawelek (360.695.4858 ext 313)
Oregon Compliance Contact: Ken Lucas (541.298.7255 ext. 24)
Oregon Solid Waste Disposal Permit # 394

Wasco County Landfill

Wasco County Landfill; 2550 Steele Road; The Dalles, Oregon 97058
Home Office Address: P.O. Box 61726; Vancouver, Washington 98666
EPA ID# ORQ000014886
Company Environmental Contact: Pamela S. Pawelek (360.695.4858 ext 313)
Oregon Compliance Contact: Ken Lucas (541.298.7255 ext. 24)
Oregon Solid Waste Disposal Permit # 53

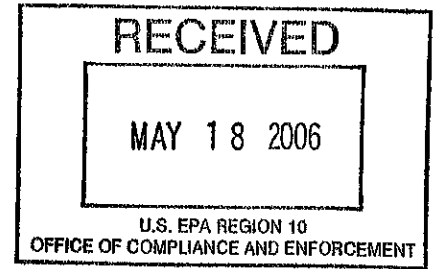
If you have any questions, please call me at 360.695.4858 ext. 313

Sincerely,

Pamela S. Pawelek
Waste Connections, Inc.
PNW Environmental Manager



WASTE CONNECTION, INC.
Connect with the Future®



Xiang-yu Ge
USEPA Region X
1200 6th Avenue
Mail Stop WCM 126
Seattle, WA 98101

May 15, 2006

Dear Xiang-yu Ge;

Please let this letter serve as the 2006-2007 annual request for continued listing of the Finley Buttes Regional Landfill and Wasco County Landfill as landfills approved for receipt of non-hazardous CERCLA wastes.

Finley Buttes Regional Landfill

Finley Buttes Regional Landfill: 73221 Bombing Range Road; Boardman, Oregon 97818
Home Office Address: P.O. Box 61726; Vancouver, Washington 98666
EPA ID# ORD 987199643
Company Environmental Contact: Pamela S. Pawelek (360.695.4858 ext 313)
Oregon Compliance Contact: Ken Lucas (541.298.7255 ext. 24)
Oregon Solid Waste Disposal Permit # 394

Wasco County Landfill

Wasco County Landfill; 2550 Steele Road; The Dalles, Oregon 97058
Home Office Address: P.O. Box 61726; Vancouver, Washington 98666
EPA ID# ORQ000014886
Company Environmental Contact: Pamela S. Pawelek (360.695.4858 ext 313)
Oregon Compliance Contact: Joe Gingerich (541.298.7255 ext. 23)
Oregon Solid Waste Disposal Permit # 53

If you have any questions, please call me at 360.695.4858 ext. 313

Sincerely,

Pamela S. Pawelek
Waste Connections, Inc.
PNW Environmental Manager

USEcology Washington, Inc.

an American Ecology company
1777 Terminal Drive
Richland, Washington 99354

RECEIVED

FEB 15 2008

Office of Air Waste & Toxic

15 February 2008

Lisa McArthur
EPA Region 10
Resource Management & RCRA Programs Unit
1200 Sixth Avenue Suite 900
Seattle, WA 98101

Dear Ms. McArthur,

US Ecology Washington, Inc. (USEW) is writing to verify its ability to receive CERCLA waste resulting from an EPA Region III cleanup of Strube, Inc. The waste consists of aircraft dials and gauges containing Radium, which are similar to other ex-military wastes received by our site in the past. There are no other hazardous constituents.

USEW, a private company, is located on the Hanford Reservation and has been previously authorized to accept CERCLA waste under the Off-Site Rule. Attached is a 1995 letter from EPA Region 10 allowing USEW to receive CERCLA waste provided it meets the requirements of its Washington State Radioactive Materials License.

USEW is working with Washington Department of Ecology on a Model Toxic Control Act (MTCA) Remedial Investigation and Focused Feasibility Study (RI/FFS) on certain Solid Waste Management Units at the site. These pre- 1985 trenches accepted what is now considered hazardous and mixed waste. Separate trenches are used for waste disposal today. Upon completion of the RI/FFS, formal closure of the pre 1985 trenches will occur.

USEW is requesting EPA concurrence that our facility is authorized to accept CERCLA waste while meeting the requirements of their Washington State Radioactive Materials License.

If you have any questions or need additional information do not hesitate to call me at (509) 377-2411.

Sincerely,



Michael R. Ault
Facility Manager
US Ecology Washington, Inc.



RECEIVED MAR 0 1 1995

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 10
1200 Sixth Avenue
Seattle, Washington 98101

Reply To
Attn Of: HW-104

FEB 27 1995

Barry C. Bede
Regional Manager
US Ecology, Inc.
509 12th Avenue S.E., Suite 14
Olympia, Washington 98501-7519

Re: Change in Status of the US Ecology, Inc. Facility, Richland,
Washington, under the CERCLA Off-Site Rule

Dear Mr. Bede:

Recently, the United States Environmental Protection Agency ("EPA"), Region 10, was asked by the United States Department of Energy ("DOE") to review the acceptability status of the Central Waste Complex ("CWC") at the DOE Hanford Facility under the Off-Site Rule, promulgated pursuant to the authority contained in the Comprehensive Environmental Response, Compensation and Liability Act, as amended ("CERCLA"), 42 U.S.C. § 9601 et seq. As part of that review, EPA also examined the releases or threatened releases from the solid waste management units ("SWMUs") identified in the Hanford site-wide permit, issued on August 29, 1994, under the authorities contained in the 1984 Hazardous and Solid Waste Amendments ("HSWA") to the Resource Conservation and Recovery Act ("RCRA"), 42 U.S.C. § 6901 et seq.

As you know, both US Ecology and DOE have appealed certain portions of the Hanford site-wide permit ("HSWA permit"), specifically those portions of the HSWA permit which mandate that DOE perform corrective action at the US Ecology SWMUs. In addition, by letter dated February 9, 1993, US Ecology had requested that EPA approve the US Ecology facility under the CERCLA Off-Site Rule. On June 16, 1993, EPA sent a letter to US Ecology requesting, among other things, that US Ecology provide EPA additional information regarding the design and operational parameters of the US Ecology solid waste management units. EPA informed US Ecology that this additional information was necessary for EPA to determine whether the US Ecology facility was acceptable under the Off-Site Rule. To date, EPA has not received any response from US Ecology regarding EPA's June 16, 1993 letter and the information requests contained therein.

However, since June 16, 1993, the situation at Hanford has changed. The HSWA permit was issued to DOE on August 29, 1994. The US Ecology SWMUs were included in the HSWA permit. Under the

Off-Site Rule, codified at 40 CFR § 300.440, the term "facility" is defined broadly. At the Hanford Facility under the Off-Site Rule, EPA considers the "facility" to include the entire Hanford Federal Facility from fence-to-fence, including all contiguous lands owned by DOE. Since the US Ecology SWMUs are located on lands owned by DOE, they are considered part of the Hanford Facility when EPA makes acceptability determinations under the CERCLA Off-Site Rule for the Hanford Facility.

As mentioned above, DOE and US Ecology have appealed the HSWA permit. This means that those contested HSWA permit conditions are not in effect nor currently "addressing" any releases or potential releases from the US Ecology SWMUs. However, during the pendency of the HSWA permit appeal, the CWC facility can still remain acceptable under the Off-Site Rule if the facility can show, to EPA's satisfaction, that either: 1) there are interim corrective measures in place which address the releases at the facility; or 2) that no interim corrective measures are necessary at the facility during the interim permit appeal period. See 40 CFR § 300.440(e). DOE has shown, based upon the results of current groundwater monitoring efforts and soil sampling efforts in the 200 Area of the Hanford Site, that no interim or emergency corrective measures are necessary to address the releases or threatened releases from the US Ecology SWMUs or any other non-receiving units in and around the 200 Area of the Hanford Facility during the pendency of the HSWA permit appeal. In addition, monitoring done by US Ecology at its site appears to corroborate that no emergency or interim corrective measures are necessary at this time. Thus, the CWC at the Hanford Facility is currently acceptable for receipt of off-site DOE CERCLA wastes during the pendency of the HSWA permit appeal.

By virtue of the issuance of the Hanford HSWA permit and the operation of 40 CFR § 300.440(e), the US Ecology Site is also now considered by EPA to be an acceptable facility under the Off-Site Rule for CERCLA low-level radioactive waste during the interim period of the pending HSWA permit appeal. The acceptability of the US Ecology Site under the Off-Site Rule may change, depending upon the outcome of the HSWA permit appeal and whether or not the current environmental monitoring at the US Ecology Site and/or the CERCLA monitoring at the 200 Area of the Hanford Site discover any releases or threatened releases which require emergency or interim corrective measures. If the acceptability status of the US Ecology Site should change, you will be notified pursuant to 40 CFR § 300.440(d).

Before US Ecology accepts any shipment of CERCLA low-level radioactive wastes, US Ecology must contact Dennis Faulk at EPA's Hanford Project Office at (509) 376-8631 to verify the acceptability of the US Ecology Site under the Off-Site Rule. Any shipments of such CERCLA waste must also be coordinated with the Washington State Department of Ecology ("Ecology") by

contacting either Jeffrey Breckel or Joseph Stohr of Ecology at (360) 407-7148 or (360) 407-7107, respectively. Any shipments of CERCLA low-level radioactive waste to the US Ecology Site must also be handled in accordance with US Ecology's Radioactive Materials Handlers License and coordinated through the Washington State Department of Health.

This letter is not intended to indicate or to otherwise certify facility compliance with any applicable environmental regulations. It is intended only as a statement of the current acceptability of the US Ecology Site under the Off-Site Rule under EPA procedures for planning and implementing off-site response actions.

If you have any questions in this matter, please contact Kevin Schanilec of my staff at (206) 553-1061.

Sincerely,



Randall F. Smith, Director
Hazardous Waste Division

cc: Jim Rasmussen, DOE-RL
Cliff Clark, DOE-RL
Patrick Willison, DOE-RL
Gary Robertson, Washington State Department of Health
Al Conklin, Washington State Department of Health
Joe Stohr, Ecology



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 10
1200 Sixth Avenue, Suite 900
Seattle, Washington 98101-3140

10 APR 2008

Reply To: OCE-127

CERTIFIED MAIL NUMBER 7006 3450 0001 6612 7172
RETURN RECEIPT REQUESTED

Mr. Michael R. Ault
US Ecology Washington, Inc.
1777 Terminal Drive
Richland, Washington 99354

Re: Comprehensive Environmental Response Compensation and Liability Act
Off-Site Rule: Affirmative Determination of Acceptability for
US Ecology Washington, Inc.,
EPA ID Number WAD 06004 8360

Dear Mr. Ault:

In response to your letter dated February 15, 2008, this letter is to inform you that the U.S. Environmental Protection Agency (EPA) Region 10, pursuant to 40 CFR Section 300.440(a), has completed an assessment of the US Ecology Washington, Inc., facility ("Facility"). A determination has been made that the facility may receive CERCLA low level radioactive waste generated off-site pursuant to the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA).

Off-site wastes are defined as those wastes generated as a result of activities authorized or funded by CERCLA, 42 USC Section 9607, as amended. On September 22, 1993, EPA amended the National Oil and Hazardous Substances Pollution Contingency Plan (NCP), 40 CFR Part 300 by adding section 300.440, commonly known as the "Off-Site Rule," a copy of which is enclosed.

The Facility, located on the Hanford Reservation in Richland, Washington, currently receives low-level radioactive waste. A review of federal, state and local agency records indicates that the Facility is currently in substantial compliance with the Facility's permits, license and/or applicable federal and state environmental requirements. Therefore, upon receipt of this letter, US Ecology Washington, Inc., is acceptable to receive non-hazardous CERCLA off-site waste. EPA reserves the right to reevaluate this determination should any additional information become available. This notice does not authorize the facility to undertake any waste management practices which have not been previously authorized by permit or regulation. The Facility's actual receipt of CERCLA waste must be in accordance with all applicable federal and state requirements.

updated 4/10/08

Prior to the acceptance by US Ecology Washington, Inc., of each and every shipment of CERCLA low-level radioactive wastes, the Facility must contact Dennis Faulk at EPA's Hanford Project Office at (509) 376-8631 and Ron Skinnarland at Washington Department of Ecology at (509) 372-7924. Any shipments of CERCLA low-level radioactive waste to the US Ecology Washington, Inc., site must also be handled in accordance with the facility's Radioactive Materials Handlers License and coordinated as required through the Washington State Department of Health. Should you have any questions concerning this matter, please contact Xiangyu Chu, of my staff, at 206-553-2859.

Sincerely,

Michael A. Bussell, Director
Office of Compliance and Enforcement

Enclosure

cc without enclosure:

Ron Skinnarland, Washington Department of Ecology
Mike Elsen, Washington State Department of Health

bcc without enclosure:

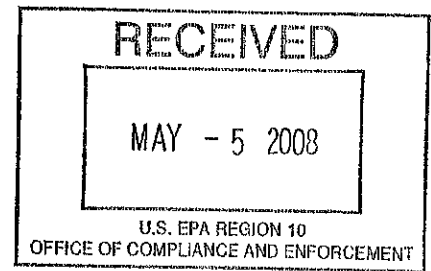
Dennis Faulk, EPA Hanford Project Office
Xiangyu Chu, OCE-127 ✓
Site Folder, 4(c)
Bob Hartman, ORC
Jack Boller, AWT-122
Tim Brincefield, ECL-112

L:\Air-RCRA\Chu (Ge)\USEcologyWA.doc

CONCURRENCES					POLICY FILE
Initials	<i>XC</i>	<i>KS</i>	<i>RSH</i>	<i>JK</i>	Yes <input checked="" type="radio"/> No
Name:	Xiangyu Chu ORC-127	Kevin Schanilec ORC-127	Rob Hartman ORC-158	Jeff KenKnight, Mgr, ARCU	If policy file please bcc to RMSPU Manager
Date:	4/1/08	4/7/08	4/7/08	4/8/08	
RCRAInfo EVENT		Yes	<input checked="" type="radio"/> No		
SNC IDENTIFICATION		Yes	<input checked="" type="radio"/> No		
(Can it be entered in RCRAInfo?)		Yes	<input checked="" type="radio"/> No		
SBREFA INFO VERIFICATION		Yes	<input checked="" type="radio"/> No		
PEER REVIEW		<input checked="" type="radio"/> Yes	No		



WASTE CONNECTIONS INC.
Connect with the Future®



Xiangyu Chu
USEPA Region X
1200 6th Avenue
Mail Stop WCM 126
Seattle, WA 98101

May 2, 2008

Dear Xiangyu Chu;

Please let this letter serve as the 2008-2009 annual request for continued listing of the Finley Buttes Regional Landfill and Wasco County Landfill as landfills approved for receipt of non-hazardous CERCLA wastes.

Finley Buttes Regional Landfill

Finley Buttes Regional Landfill: 73221 Bombing Range Road; Boardman, Oregon 97818
Home Office Address: P.O. Box 61726; Vancouver, Washington 98666
EPA ID# ORD 987199643
Company Environmental Contact: Pamela S. Pawelek (360.695.4858 ext 313)
Oregon Compliance Contact: Ken Lucas (541.298.7255 ext. 24)
Oregon Solid Waste Disposal Permit # 394

Wasco County Landfill

Wasco County Landfill; 2550 Steele Road; The Dalles, Oregon 97058
Home Office Address: P.O. Box 61726; Vancouver, Washington 98666
EPA ID# ORQ000014886
Company Environmental Contact: Pamela S. Pawelek (360.695.4858 ext 313)
Oregon Compliance Contact: Joe Gingerich (541.298.7255 ext. 23)
Oregon Solid Waste Disposal Permit # 53

If you have any questions, please call me at 360.695.4858 ext. 313

Sincerely,

Pamela S. Pawelek
Waste Connections, Inc.
PNW Environmental Manager

cc: Nancy Mitchell, Wasco
James Browning, Finley
Dean Large, WCI



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 10

1200 Sixth Avenue, Suite 900
Seattle, Washington 98101-3140

MAR 22 2012

OFFICE OF
COMPLIANCE AND ENFORCEMENT

Certified Mail Number 7011 1150 0000 7953 1531
Return Receipt Requested

Richard Grondin
Vice President/General Manager
PermaFix Northwest Richland, Inc.
2025 Battelle Blvd.
Richland, Washington 99354

Re: Off-Site Rule Response – Facility Unacceptable for Receipt of CERCLA Remedial Wastes
PermaFix Northwest Richland, Inc.
EPA ID Number WAR 0001.0355

Dear Mr. Grondin:

The purpose of this letter is to notify you that the U.S. Environmental Protection Agency, Region 10 (EPA), has determined that conditions exist at the facility at PermaFix Northwest Richland, Inc., at 2025 Battelle Boulevard, Richland, Washington 99354 (PermaFix or 'facility'), which render the facility unacceptable for the receipt of off-site wastes generated as a result of removal or remedial activities under the Comprehensive Environmental Response, Compensation and Liability Act, as amended (CERCLA or Superfund), 42 U.S.C. § 9601 seq.

This determination of unacceptability becomes effective sixty (60) calendar days from receipt of this notice. Once this determination becomes effective, the facility will remain unacceptable for receipt of CERCLA wastes until notification by EPA that the facility is again acceptable to receive such wastes. The implementation of this notice does not prohibit EPA or delegated state programs from taking appropriate enforcement actions under CERCLA or the Resource Conservation and Recovery Act, as amended (RCRA), 42 U.S.C. § 6901 et seq.

On September 22, 1993, the final Off-site Rule was published by EPA in the Federal Register. The purpose of the Off-site Rule is to avoid having Superfund wastes contribute to present or future environmental problems by ensuring that these wastes are directed to facilities which are environmentally sound. Section 121(d)(3) of CERCLA, 42 U.S.C. § 9621(d)(3), describes procedures that must be observed when a response action under CERCLA involves off-site management of CERCLA wastes. The Off-site Rule implements the requirements of Section 121(d)(3) of CERCLA. A copy of the Off-site Rule is enclosed for your review.

On May 24-28, 2010, EPA conducted an inspection of PermaFix. As a result of that inspection, EPA issued a Notice of Violation (NOV) in response to violations of the State of Washington's authorized dangerous waste program set forth in Washington Administrative Code (WAC) Chapter 173-303, and Permit No WAR000010355 for Storage and Treatment of Mixed Waste and for the Storage (Permit) and Disposal of Mixed-Toxic Substances Control Act (TSCA) regulated Polychlorinated Biphenyl (PCB) Wastes. These violations are "relevant violations" pursuant to 40 C.F.R. § 300.440(b), and include:



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 10

1200 Sixth Avenue, Suite 900
Seattle, Washington 98101-3140

MAY 17 2012

OFFICE OF
COMPLIANCE AND ENFORCEMENT

Certified Mail Number 7011 1150 0000 7954 0892 - Return Receipt Requested

Richard Grondin
Vice President/General Manager
PermaFix Northwest Richland, Inc.
2025 Battelle Boulevard
Richland, Washington 99354

Re: Sixty Day Period Extension
Off-Site Rule Response – Facility Unacceptable for Receipt of CERCLA Remedial Wastes
PermaFix Northwest Richland, Inc.
EPA ID No WAR 00001 0355

Dear Mr. Grondin:

On March 22, 2012, the U.S. Environmental Protection Agency, Region 10 (EPA) notified PermaFix Northwest Richland, Inc., (PermaFix Northwest) in a letter that conditions existed at the facility which rendered the facility unacceptable for the receipt of off-site wastes generated as a result of removal or remedial activities under the Comprehensive Environmental Response, Compensation and Liability Act, as amended (CERCLA or Superfund), 42 U.S.C. § 9601 seq. Specifically, there were five separate regulatory and/or permit violations, cited in a Notice of Violation ("NOV") issued to PermaFix Northwest on March 20, 2012. The determination of unacceptability was to have become effective on May 25, 2012, sixty (60) calendar days from receipt of the notice, unless information presented by PermaFix Northwest supported a finding of acceptability.

On April 25 and May 11, 2012, PermaFix Northwest submitted to the EPA information addressing the violations cited in the March 22 letter and March 20 NOV. Because the correction of these relevant violations requires the review of these submissions from PermaFix Northwest by the EPA, the EPA is granting an extension to the sixty (60) day period of thirty (30) days pursuant to 40 C.F.R. § 440.300(d)(8). The new effective date is Monday, June 25, 2012.

If you have any questions regarding this letter, you may contact Robert Hartman, Assistant Regional Counsel, at: U.S. Environmental Protection Agency, 1200 Sixth Avenue, Suite 900, M/S ORC-158, Seattle, Washington 98101; or by telephone at (206) 553-0029; or by email to Hartman.Bob@epa.gov.

Sincerely,

Edward J. Kowalski
Director

cc: Ron Skinnerland
Washington State Department of Ecology

Schanilec, Kevin

From: Schanilec, Kevin
Sent: Wednesday, October 23, 2013 3:22 PM
To: ronda@idahowaste.com
Cc: Chu, Xiangyu
Subject: CERCLA Off-Site Acceptability for Simco Road Regional Landfill

Dear Ms. Avery:

EPA Region 10 is in receipt of the September 30, 2013 letter from Parametrix regarding the proposed approval of the Simco Road Regional Landfill facility for receipt of CERCLA waste under the Off-Site Rule (OSR), 40 CFR 300.440. Based on the information contained in the September 30, 2013 letter, and based on information obtained from representatives from the State of Idaho, it has been determined that the Simco Road Regional Landfill is currently acceptable to receive CERCLA waste pursuant to the Off-Site Rule.

Please note that, in addition to this initial acceptability determination, all potential customers of Simco Road Regional Landfill who wish to ship CERCLA waste to the facility are required to first verify with EPA Region 10 that the facility continues to be acceptable prior to initiating shipment. EPA Region 10 periodically conducts follow-on verifications with Local, State and/or Federal agencies in order to ensure that receiving facilities continue to be acceptable. Potential customers should contact either or both of the following current Region 10 OSR coordinators:

Kevin Schanilec: Schanilec.kevin@epa.gov
Xiangyu Chu: Chu.xiangyu@epa.gov

If you have any questions, feel free to contact me.

Sincerely,

Kevin Schanilec
Senior Enforcement Engineer
EPA Region 10 (OCE-127)
1200 Sixth Avenue, Suite 900
Seattle, WA 98101
206-553-1061